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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x
3 UNITED STATES OF AMERICA,

4 v.

17 CR 684 (ER)

5 CHRISTIAN DAWKINS AND MERL
6 CODE ,

Trial

7 Defendants.

-----x

8 New York, N.Y.

May 6, 2019

9 9:00 a.m.

10 Before:

11 HON. EDGARDO RAMOS

12 District Judge

13 APPEARANCES

14 GEOFFREY S. BERMAN

United States Attorney for the
15 Southern District of New York

16 ROBERT L. BOONE

NOAH D. SOLOWIEJCZYK

ELI J. MARK

17 Assistant United States Attorneys

18 HANEY LAW GROUP PLLC

Attorney for Defendant Dawkins

19 BY: STEVEN A. HANEY, SR.

20 CHANEY LEGAL SERVICES, LLC

BY: DAVID A. CHANEY, JR.

21 -and-

NEXSEN PRUET, LLC

22 BY: ANDREW A. MATHIAS

MARK C. MOORE

23 Attorneys for Defendant Code

24 ALSO PRESENT: JOHN VOORDERIS, Special Agent FBI

YOLANDA BUSTILLO, Paralegal Specialist USAO

25 EMILY GOLDMAN, Paralegal Specialist USAO

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(Trial resumed; jury not present)

THE COURT: It's after 9 o'clock. Did either side wish to bring up anything?

MR. MARK: Not from the government, your Honor.

MR. SOLOWIEJCZYK: No, your Honor.

MR. MOORE: Your Honor, we were just talking for a moment about closing arguments, and I assume that if the government has an issue, they'll let us know about some things we just told them. I just want to make sure, having never done a summation before your Honor, I know that your Honor's instructions are the instructions on the law, and I'm assuming that I can talk about those instructions --

THE COURT: You may, absolutely.

MR. MOORE: -- correct?

THE COURT: Yes.

MR. MOORE: I've clipped portions of them.

THE COURT: OK.

MR. MOORE: I'm not going to go much beyond that. I'm also assuming I can talk about reasonable doubt?

THE COURT: Yes.

MR. MOORE: I just wanted to be sure because in the Fourth Circuit where I'm from, you really can't talk about it much at all.

THE COURT: So what do you do?

MR. MOORE: Well, you talk about -- you can't define

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1 it; the Court can't define it.

2 THE COURT: The Court doesn't define it?

3 MR. MOORE: The Court does not define it, and some
4 might say that's good for the government. Some might say that.
5 So the Court doesn't define it, and you talk about these are
6 reasonable doubts, and they should understand what the meaning
7 of the word "reasonable doubt" is and you go.

8 MR. SOLOWIEJCZYK: To be clear, we're not going to
9 have an objection as long as whatever he's saying about
10 reasonable doubt is consistent with the instructions the Court
11 has given.

12 MR. MOORE: It is consistent with your Honor's
13 instructions.

14 THE COURT: I assume so.

15 MR. MOORE: I made sure of that.

16 THE COURT: That was my working assumption.

17 MR. SOLOWIEJCZYK: OK.

18 MR. CHANEY: We decided to revise the definition.

19 (Recess)

20 THE COURT: We're waiting on two jurors, but we will
21 start as soon as they get here.

22 (Recess)

23 THE COURT: OK. The jury's here, ladies and
24 gentlemen.

25 (Jury present)

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Summation - Mr. Haney

1 THE COURT: Everyone, please be seated.

2 Good morning, ladies and gentlemen. I hope that you
3 were able to enjoy some part of the weekend despite the rain.
4 And I apologize for the bottleneck downstairs. Apparently,
5 we're starting eight trials today. There are a lot of new
6 potential jurors coming in. Do bear that in mind as we go
7 through the week. There will be substantially some additional
8 traffic coming in. So bake that into your estimate as to when
9 to get here.

10 We will now continue with summations. At this point
11 the defense will go. Mr. Haney, do you wish to sum up?

12 MR. HANEY: Thank you, your Honor.

13 Good morning. Hope you had a great weekend.

14 Now, before I begin, on behalf of my client, Christian
15 Dawkins, and myself, I want to deeply thank you all for your
16 patience, your attentiveness, your punctuality, and the
17 sacrifices you all made by being here to give Christian Dawkins
18 his day in court.

19 As I watched you all over the last two weeks dutifully
20 filing in one by one to take your respective chairs in the jury
21 box, it really struck me, maybe for the first time in 20 years,
22 how profoundly much and deep the sacrifices that you make when
23 you leave your lives, you leave your families, you leave your
24 loved ones to be jurors, and you're doing so because this is a
25 very important moment for Christian Dawkins. Christian Dawkins

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Summation - Mr. Haney

1 is in a fight for his life, and he's still in that fight right
2 now to clear his name, to fight for his freedom and his
3 liberty.

4 Now, I would be remiss if I didn't also comment on and
5 compliment the efforts of the government in this case and their
6 team of fine young lawyers: Mr. Boone, Mr. Mark,
7 Mr. Solowiejczyk, Ms. Bustillo. I don't agree with much of
8 anything that they presented during the course of this trial,
9 but I respect their positions and the jobs that they did, and I
10 listened intently to their closing argument, as I hope you do
11 to mine.

12 Ladies and gentlemen, despite the missteps and
13 mistakes that Christian Dawkins has made in his 26 years of
14 life, and he's made many, I submit to you that those missteps,
15 those mistakes, and the characters that he met along the way,
16 some of those that you saw come in this courtroom and testify
17 against him, men that were twice his age, did not warrant the
18 gravity of these federal crimes that were brought against him.

19 Now, hopefully together these discussions that we'll
20 have will be helpful to you in arriving at a decision in this
21 case where you don't compromise, you don't sacrifice your
22 beliefs, you don't betray your individual conscience, but you
23 instead do the right thing. And you, ladies and gentlemen, are
24 the ones who are empowered in determining what is the right
25 thing. And it's a great and mighty privilege that you have,

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Summation - Mr. Haney

1 and perhaps a burden, to hold a young man's future in your
2 hands and be the purveyors of justice and, ultimately, make the
3 decision, the difficult decision, has this case really made any
4 sense to you, if this case is worthy of condemning a man for
5 the actions in this case that seem so uncertain and conflicting
6 at times.

7 So the defendant Christian Dawkins is now afforded his
8 time to argue the case, if you will, but I'm not going to argue
9 with you. What I'm going to do is try and discuss the
10 reasonable inferences which I submit that you can draw from the
11 evidence in this case and try to make sense of what I submit at
12 times was nonsensical, find reason within the unreasonable, and
13 explain much of the inexplicable of this case that was brought
14 against Christian Dawkins.

15 Ultimately, it is what you determine to be the facts
16 is what is going to be important, and all of us can live with
17 that and we will because you all took an oath as jurors, and
18 we're mindful of the oath you took. We have confidence you
19 will fulfill that oath and keep the promises that you made when
20 you took that oath as jurors. Simply put, you are fair people.
21 We are confident in you that you will arrive at a fair and just
22 outcome, not for just the government, not just for the defense,
23 but for both sides, because that's what fair people do.

24 Now, after several weeks of often admitted tedious
25 moments, you are now empowered to administer justice as the

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Summation - Mr. Haney

1 jury. That's your job. No more lawyer arguments. No more
2 trips to the sidebar that you saw frequently occur. You are
3 now empowered to ensure that this great system of a jury
4 process works, greatest system in the world. The ball is in
5 your court, and I submit you have the opportunity, it seems to
6 me, to now be participants in that administration of justice.
7 For, ladies and gentlemen, as you will see, as perhaps you have
8 seen for the last two weeks, I submit the government took this
9 case of a lot of talk, a lot of transcript Scrabble, a lot of
10 NCAA rule-breaking, and effectively legislated and turned those
11 violations into federal law. I don't know why they did. I
12 can't answer that question. But what I do know is that on
13 Friday, the government started their closing argument wanting
14 to talk about lies. Well, I want to talk about the truth.

15 A poet by the name of William Blake, and I want you to
16 remember this quote that he had, William Blake, said, "A truth
17 that's told with bad intent beats all the lies you can invent."
18 So let's talk about the government's truth that they told you
19 and the intentions of what were told.

20 Mr. Boone on Thursday stood before you all and in his
21 line of questioning of Christian Dawkins accused him, no other
22 word of it, of stealing an ASM client's credit card so, as
23 Mr. Boone alleged, Christian Dawkins could embark upon 1,860
24 proverbial Uber joyrides in year. I wrote down the number so I
25 wouldn't forget it. I wish you do it too as well. That means

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Summation - Mr. Haney

1 in one year Christian Dawkins would have had to have
2 necessarily gone on five Uber rides every single day, including
3 holidays, including weekends, and every other single day.
4 Meaning, necessarily, let's say he missed a day, he would have
5 to make up for that day to go on ten rides the next day or
6 perhaps even 15 rides if you miss two days. Robert Boone knew
7 that wasn't possible when he presented that to you all during
8 the course of that questioning. So what were his intentions
9 with that line of questioning to you?

10 How about Mr. Solowiejczyk on Friday during his
11 closing argument when he said with great conviction and great
12 passion: There's no evidence that Christian Dawkins ever
13 hustled the FBI out of their money. Instead, claiming that
14 Christian Dawkins and the defense -- that would be me; I'm the
15 only one sitting over here -- hustled you and lied to you. But
16 conveniently during that closing argument, he concealed the
17 fact that there was an ATM bank deposit on August 31, 2017, in
18 Inglewood, California, knowing that the exact same day there
19 was an \$11,900 deposit in an ATM machine literally right down
20 the street from the LAX Hyatt Hotel where Christian Dawkins
21 received the cash from undercover agent Jeff, Jill Bailey. Why
22 would he hide that from you?

23 How about Mr. Solowiejczyk on Friday spending two
24 hours of your time giving you bits and pieces of conversations,
25 highlighting some words and not others, representing that those

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Summation - Mr. Haney

1 chopped-up little conversations could be representative of what
2 people were talking about? Like reading a fairy tale or a
3 book, it was like watching a madman pulling pages out of a book
4 and chapters, keeping only those in that fit the narrative of
5 this prosecution, leaving out others. You saw them do it.
6 They did it the whole trial. Leaving out recordings, leaving
7 out bank records that, if included in the book, would destroy
8 the entire theory of the case. You all know you can't read a
9 book with missing pages, and that's what the government did.
10 They wanted you to read a book with missing pages and have no
11 reasonable -- have no doubt at all.

12 How about the government presenting a case speaking
13 through a known thief on the witness stand like Marty Blazer
14 and allowing him to look you in the eyes as he was testifying
15 and saying that the two-story yacht in this disaster of an
16 investigation was being primarily used for marketing purposes?
17 Remember when Marty Blazer told you all that when he testified
18 under oath? When he was telling that bald-faced lie, I was
19 watching the government. They just sat there with their hands
20 folded, staring straight ahead, letting him continue to lie to
21 you, knowing that that wasn't true -- and you all know that
22 wasn't true -- hoping you would believe it. And they want to
23 talk about the truth?

24 How about the government luring a 22-year-old kid from
25 what the testimony was a poor, a poor and economically

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Summation - Mr. Haney

1 depressed town --

2 MR. BOONE: Objection.

3 MR. HANEY: -- like Saginaw Michigan --

4 THE COURT: Sustained.

5 MR. HANEY: -- on a yacht, fancy food, expensive
6 alcohol, tens of thousands of dollars in cash, a false
7 shareholders agreement that they never intended on honoring?
8 They had the nerve to suggest there was anything at all honest
9 about that or anything you've heard for the last two weeks.

10 I could give you 15 more examples, ladies and
11 gentlemen, of how, I submit to you, the prosecution in this
12 case did not represent the facts accurately and misled things,
13 but I'm not going to do that. I'm on the clock right now, and
14 I'm not going to waste your time, and my client's freedom is on
15 the clock too. But you are all reasonable people, you all know
16 that after two weeks of your lifetime spent in this courtroom,
17 something doesn't feel right about this. You know something's
18 wrong here.

19 You saw Mr. Boone on Thursday chewing on the
20 microphone, barking at Christian Dawkins when he was on the
21 witness stand like he was a drill sergeant dressing down a
22 corporal. You saw a grown man on Friday stand up during his
23 closing argument and engage in name-calling, insults, offering
24 liar, liar pants on fire argument, a U.S. Attorney. You saw
25 Munish Sood, facing up to 35 years in a federal penitentiary,

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Summation - Mr. Haney

1 betray a close friend of half his age. Munish Sood, a man who
2 essentially signed up for a second voyage on the Titanic by
3 going into business again with Marty Blazer after he knew two
4 years earlier Marty Blazer had stolen \$2 million of his
5 client's money. Munish Sood, the founder and former CEO of a
6 billion-dollar bank with no less than four securities licenses,
7 multiple college degrees from some of the finest schools in
8 America, and he testified he got his business lessons from
9 Christian Dawkins. Is that the truth?

10 Ladies and gentlemen, I submit to you all this case
11 has no soul. It didn't when the government made it up, which
12 they did, didn't for the last two weeks, and it never will.
13 Unlike any criminal case I've seen in my career, which includes
14 time as a prosecutor and attorney general, I have never seen a
15 case that was so literally manufactured.

16 MR. BOONE: Objection.

17 THE COURT: Sustained.

18 MR. HANEY: There is nothing natural or organic about
19 this case. This case was just as fake as the names of Jeff
20 D'Angelo, Jill Bailey, who, unlike my client, never took the
21 witness stand in this case to testify. The very origin of this
22 case was derived from the habitual dishonesty, thievery, and
23 morally bankrupt soul of Marty Blazer, a pathetic excuse of a
24 fraudster who wasn't even good at stealing. And when he was
25 facing 67 years in a federal penitentiary, he answered the

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Summation - Mr. Haney

1 government's call to get himself out of trouble, to help
2 concoct this college basketball bribery case.

3 I submit to you all, ladies and gentlemen, we're here
4 because of the reality that a 22-year-old kid at that time took
5 the FBI on a wild ride that ended with everyone on board the
6 proverbial team bus being driven right off the cliff by Marty
7 Blazer.

8 So let's revisit the evidence in this case. I submit,
9 as we do, you will leave empty of any sensible explanation as
10 to what possible theory the government has established proving
11 this case beyond a reasonable doubt and that Christian Dawkins
12 could be guilty of the laundry list of federal crimes,
13 including bribing college basketball coaches.

14 Now, you heard on Friday from the government this is a
15 bribery case, and it is, among other things. And your jury
16 instructions that you'll be able to review when you deliberate
17 specifically state that in order to satisfy the burden of proof
18 on a bribery theory, the government must prove that Christian
19 Dawkins intended to engage, as the government said on Friday,
20 in a *quid pro quo*, which means a this for that, specifically,
21 that Christian Dawkins gave, offered, or agreed to give a thing
22 of value to a men's basketball coach, in this case Lamont Evans
23 and Book Richardson, for a promise or performance of an act in
24 connection with some business of the university that employed
25 that coach or, in the alternative, the government must show

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Summation - Mr. Haney

1 beyond a reasonable doubt under a gratuity theory that
2 Christian Dawkins gave, offered, or agreed to give a thing of
3 value to either Lamont Evans or Book Richardson, and there was
4 a link between that payment and a specific act taken or to be
5 taken by the coach.

6 So let's explore now how I submit to you the
7 government has failed to meet that burden of proving this
8 allegation, and we're going to start with the Coach Lamont
9 Evans.

10 First, we know, absolutely certain from the evidence,
11 that there was no evidence ever presented in this trial that
12 Christian Dawkins ever paid Lamont Evans anything other than
13 the \$2,500 he testified to have paid nearly four years ago back
14 in 2000 -- 2015 and '16 at the direction of his boss, Andy
15 Miller. No evidence at all ever. The evidence showed that the
16 money was not paid to Lamont Evans by Christian Dawkins but by
17 his boss at ASM so he, Andy Miller, could hopefully sign one
18 day a player, as you heard, by the name of PJ Dozier. You
19 heard testimony not just from Christian Dawkins but everybody
20 who testified in this courtroom, Christian Dawkins couldn't
21 sign anybody. He was not a licensed player agent. He was just
22 a runner for Andy Miller who was the licensed agent. And the
23 money that was paid for his boss, not to influence Lamont Evans
24 but for Lamont Evans to give to PJ Dozier who, you heard from
25 the evidence, needed money when he moved onto campus at the

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Summation - Mr. Haney

1 University of South Carolina so that Andy Miller, not Christian
2 Dawkins, could make a good impression on the family of PJ
3 Dozier. So, ladies and gentlemen, Andy Miller, not my client,
4 could one day make money if PJ Dozier ever made it to the NBA,
5 which, by the way, he didn't.

6 Essentially, all this really sounds like is a bunch of
7 NCAA rules violations. But what was most absurd about the
8 notion of going after Christian Dawkins for Andy Miller's NCAA
9 rules misdeeds is that whatever money was provided to Lamont
10 Evans, the government never showed during the course of this
11 trial a single shred of evidence that Christian Dawkins ever
12 gave or offered or agreed to give Lamont Evans a thing of value
13 in exchange for a promise of anything at all or that there was
14 ever a link between the payment and a specific act or to be
15 taken by Lamont Evans. Where is the evidence of a *quid pro quo*
16 for bribery? Where is the promise that Lamont Evans was going
17 to return a favor to Christian Dawkins? Where is the "this for
18 that"? Where is the evidence of a gratuity theory that Lamont
19 Evans was ever provided with anything from Christian Dawkins or
20 there was a link between any payment and a specific act to be
21 taken by Lamont Evans as a reward for some future action?
22 Absolutely nothing. Literally not one shred of evidence
23 presented by the government. Just a lot of talk, a lot of guys
24 back and forth, a lot of transcript Scrabble, and a lot of
25 rules violations.

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Summation - Mr. Haney

1 The judge has instructed you on uncalled witnesses,
2 and you'll have that instruction. You can review. Was Lamont
3 Evans called as a witness? No. Did the government have the
4 opportunity to call him as a witness? Of course they did. Was
5 Jeff D'Angelo ever called as a witness at trial? No. Did the
6 government have the opportunity? Of course they did. Was Jill
7 Bailey --

8 MR. BOONE: Objection.

9 THE COURT: Sustained.

10 MR. HANEY: These folks were not called and the
11 government chose not to. You're never going to know what any
12 of them had to say.

13 MR. BOONE: Objection.

14 THE COURT: Sustained.

15 MR. HANEY: All the wiretaps, all the text messages,
16 all the secretly recorded meetings, testimony from two
17 cooperating government witnesses, and there is no evidence,
18 ladies and gentlemen, that you can look at that Christian
19 Dawkins ever gave, offered, or agreed to give Lamont Evans a
20 thing of value in exchange for the promise of anything at all,
21 nothing. All we do know absolutely certain about Lamont Evans
22 is that after March 3, 2016, the only ones who were paying
23 Lamont Evans any money at all was Marty Blazer and Munish Sood,
24 a couple of guys who Christian Dawkins as a favor to his boss
25 at ASM -- and that's where he was working in March of 2016 --

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Summation - Mr. Haney

1 wanted to take Lamont Evans off their books and push him onto
2 somebody else because as Christian Dawkins testified, PJ Dozier
3 wasn't working out.

4 All the government showed you during the course of
5 this trial was that Marty Blazer and Munish Sood were down in
6 Miami tripping all over each other to find out how they could
7 not pay Lamont Evans because, as you heard, Lamont Evans was
8 screwing everybody over. He had no promises being fulfilled.
9 Even the government's own cooperating witnesses who testified
10 in this case, both of them facing, as they told you, over 100
11 years potentially in prison, offered their services to the
12 government in hopes of not going to prison, told you on direct
13 examination they could not recall any occasion where Christian
14 Dawkins ever paid Lamont Evans a single dime.

15 And they also told you in June of 2017 they, and only
16 they, were the ones dealing with Lamont Evans and not Christian
17 Dawkins. Even if you are buying at this point what the
18 government is selling as it comes to Lamont Evans, Lamont Evans
19 was receiving money from Marty Blazer and Munish Sood. Where
20 was the evidence that any such payments from those two related
21 to any future benefit of Christian Dawkins, when both witnesses
22 told you under oath they were trying to use Lamont Evans to get
23 future financial planning clients that had nothing to do with
24 Christian Dawkins? And the government cannot show you any
25 proof at all to the contrary. Reasonable doubt?

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Summation - Mr. Haney

1 Now let's talk about Book Richardson. Now we know
2 from the evidence in this case for absolute certain Christian
3 Dawkins never paid Book Richardson, the associate head
4 basketball coach at the University of Arizona, a single penny.
5 We know that because the government's own witnesses told you
6 that when Book Richardson was paid a \$5,000 payment and later a
7 \$15,000 payment, Christian Dawkins was not there.

8 But if that is not enough reasonable doubt for you,
9 let's really close the book on Book Richardson and talk about
10 what we actually know that cannot be argued or contested by
11 anyone who listened to the evidence in this case. We know
12 undeniably from the evidence that that Christian Dawkins and
13 Book Richardson were close friends. We know undeniably from
14 the evidence in this case that on the date of June 20, 2017,
15 Book Richardson was in New York taking a cab to go to a 10 a.m.
16 meeting with Jeff D'Angelo. And when on the way to that
17 meeting, Christian Dawkins and Book Richardson had a
18 conversation that was captured on a wiretap phone call.

19 Think about the logic of this, ladies and gentlemen.
20 If you are captured on a wiretap phone call and nobody knows
21 that, you don't know you're being recorded, you are going to be
22 in your truest moments at that point in time. So we know what
23 Book Richardson and Christian Dawkins were saying. We don't
24 need anybody to interpret that. We don't need the government
25 to put up a transcript. We don't need Marty Blazer to tell him

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Summation - Mr. Haney

1 what he understood them to mean. We know what that
2 conversation consisted of on June 20, 2017, between Christian
3 Dawkins and Book Richardson.

4 I want to play that briefly, if we can. This is
5 Government Exhibit 101.

6 (Audio played)

7 MR. HANEY: Now, that was Christian Dawkins and Book
8 Richardson. That doesn't need any interpretation. We know
9 undeniably from what you just heard, Christian Dawkins is
10 telling Book Richardson as he's on his way to meet Jeff
11 D'Angelo what the play should be. And maybe the government
12 doesn't know what that means. You all are allowed to rely on
13 your individual experiences and common sense. If somebody
14 says, this is what the play is going to be, I submit to you
15 that means this is what the hustle is going to be. And we know
16 undeniably from what you just heard, Christian Dawkins
17 literally gave Book Richardson a script of what to tell Jeff
18 D'Angelo to hustle that money out of -- I'm sorry, to tell Book
19 Richardson what to hustle out of Jeff D'Angelo. And we know
20 undeniably from what you just heard that Christian Dawkins told
21 Book Richardson that he had hyped him up to Jeff D'Angelo, and
22 he could probably get more money out of him.

23 And what we undeniably know, from what you just heard,
24 is when Christian Dawkins told his buddy Book, when he was
25 hooking him up on this free cash out of Jeff D'Angelo, Book

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Summation - Mr. Haney

1 Richardson says to Christian Dawkins: "But what can I do to
2 make sure you and I are good?" Remember that, ladies and
3 gentlemen, how important that statement is from Book
4 Richardson, "what can I do to make sure you and I are good?"

5 Remember the government talking about the *quid pro*
6 *quo*, this for that, ladies and gentlemen, this is the time
7 when, if Christian Dawkins was bribing Book Richardson, he
8 would have said: We can be good if you send me some players
9 from Arizona. He doesn't say that. What does Christian
10 Dawkins say? I'm Gucci. I'm good. He even proceeds to tell
11 Book Richardson: Do whatever you want with the money or just
12 go on vacation with it. Who cares?

13 Bribery? Christian Dawkins says: You know, Sean is
14 already paying for Rawle and them. He's referring to Sean
15 Miller paying Rawle Alkins and the other players at Arizona, so
16 Christian Dawkins has no reason or motive to give Book
17 Richardson any money. Does that give you reasonable doubt of
18 whether or not there was a bribe? I don't know how it
19 couldn't, ladies and gentlemen. I would submit to you that
20 that perhaps is a rarity where on a wiretap phone call you have
21 direct evidence that a bribe didn't happen. Then we do know
22 undeniably from the evidence in this case that on the date of
23 June 20, 2017, when Book Richardson received that \$5,000 cash
24 from Jeff D'Angelo, Christian Dawkins wasn't even there.

25 We also know undeniably from the evidence that after

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Summation - Mr. Haney

1 this meeting on June 20, 2017, the same day Christian Dawkins
2 calls his business partner Munish Sood, and this is what they
3 say.

4 (Audio played)

5 MR. HANEY: Christian Dawkins, you just heard, asked
6 Munish Sood: How did it go with Book?

7 And Munish Sood said: It went great. Jeff left with
8 a gift. The gift, obviously, was the \$5,000 that Jeff D'Angelo
9 gave Book Richardson.

10 And we know from the evidence, and you could hear the
11 tone of voice, the sarcasm from Christian Dawkins saying: Did
12 Jeff feel good right now?

13 Munish Sood says: Dude is like fucking high. You
14 made his whole thing he's so happy.

15 Then on the wiretap you hear Christian Dawkins
16 laughing. He's saying, incredulously: I mean, what does Jeff
17 think Book can do for him? Is he just a fan? A fan, Christian
18 Dawkins told you, in his opinion, was a basketball fan, a jock
19 sniffer, a guy who likes to be around the athletes.

20 And Munish Sood says: I don't know. I think Book
21 thinks the business is going to grow and send us some kids.

22 And Christian Dawkins responds: Well, guys like Book
23 are going to send me kids anyway. Doesn't he understand that?

24 It's important, the transcripts don't provide you with
25 context of the sarcasm and the laughter and the humor, what

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Summation - Mr. Haney

1 these guys are really thinking.

2 Munish Sood says: No, he's like dying man. He's
3 dying. Don't wake him up. That's what Munish Sood says, don't
4 wake Jeff D'Angelo up.

5 Christian Dawkins says: I know. Trust me, I'm not
6 gonna say anything.

7 Then, ladies and gentlemen, Munish Sood says perhaps
8 one of the more profound lines of the trial as it relates to
9 Book Richardson. If you don't already have reasonable doubt,
10 Munish Sood says: If Jeff wants to give Book 20 grand and we
11 get the same result, but we can leverage Book for some other
12 stuff, fine.

13 Ladies and gentlemen, Munish Sood, the government's
14 own witness is saying that Jeff D'Angelo, and only Jeff
15 D'Angelo, not Christian Dawkins, is giving Book Richardson
16 \$20,000, the same amount the government alleges Christian
17 Dawkins paid to Book Richardson as a bribe. And both Christian
18 Dawkins and Munish Sood are laughing at how pointless that
19 payment is to Book Richardson, and we know undeniably from the
20 government's own witness, Munish Sood, he says, "Jeff just
21 wants to do a bunch of coaches," which is later learned so that
22 he could advance this theory of this bribery case of bribing
23 coaches.

24 Ladies and gentlemen, a young man's life is on the
25 line here. I urge you and implore you, even though you've

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Summation - Mr. Haney

1 heard that call a couple of times already, when you deliberate,
2 take one minute and 52 seconds of your life and play Government
3 Exhibit 104 when you deliberate. Listen to the tone of voice
4 of Christian Dawkins, the unmitigated joy and laughter of both
5 Christian Dawkins and Munish Sood mocking the whole idiocy of
6 the FBI agent Jeff D'Angelo giving Book Richardson not a \$5,000
7 gift but a \$20,000 gift when, as their own witness said, we're
8 going to get the same result anyway; when Christian Dawkins
9 said, he's going to send me players anyway; when Christian
10 Dawkins said, I don't need anything, I'm Gucci. And we know
11 from the evidence at a later point, good old Book Richardson,
12 he goes back to the well again and extracts another \$15,000 out
13 of Jeff D'Angelo because, as Munish Sood told you, Jeff
14 D'Angelo held all the purse strings. And the 20 grand, as
15 Munish Sood called it, was paid just like the \$5,000 was, for
16 absolutely no reason that either Christian Dawkins or Munish
17 Sood could understand and they both found humorous.

18 Bribery? You got to be kidding me. I will say it
19 again, if Jeff wants to give 20 grand to Book and we get the
20 same result, but you can leverage Book for some other stuff,
21 fine. Munish Sood wanted NBA veterans because Book Richardson
22 knew them. That's not illegal for Book Richardson to refer a
23 guy playing in the NBA over to Munish Sood for financial
24 planning services. But despite this being the evidence, the
25 government needed to do something, so they played transcript

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Summation - Mr. Haney

1 Scrabble, and they suggested to you that this money, despite
2 what you heard on the audiotapes, was paid for the recruiting
3 purpose of a player by the name of Jahvon Quinerly. And the
4 government did so, just like they did in their closing
5 argument, by piecing together bits and pieces of conversations,
6 only partially representing what was said.

7 But you want to find that a credible way to be
8 convinced of something beyond a reasonable doubt? I submit,
9 ladies and gentlemen, that is embarrassing. I further submit
10 that if anyone's honesty should be questioned, perhaps then
11 this case should look in the mirror. There's nothing honest
12 about anything in this case. Use your own common sense and
13 life experiences. Don't let yourselves get lost in this
14 fantasy land. Ask yourselves -- Christian Dawkins testified he
15 had known Book Richardson for years; they were friends. In
16 fact, the whole time he worked at ASM, one of the biggest, most
17 powerful sports agencies in basketball, an agency breaking the
18 NCAA rules, paying whoever they could possibly pay to get
19 players, and Christian Dawkins testified that Arizona had NBA
20 talent, they had first round draft picks, they had the type of
21 talent that ASM so desperately wanted and would cheat to get.
22 But despite this fact and presumably the blank check that
23 Christian Dawkins had from his boss Andy Miller, Christian
24 Dawkins testified never, not one time, did he ever pay Book
25 Richardson a dime to get a player at Arizona, just like he said

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Summation - Mr. Haney

1 to Munish Sood.

2 One word about this whole thing that you saw with Book
3 Richardson, it's ridiculous. And based on this overwhelming
4 evidence, understanding the defense doesn't have to prove
5 anything in a criminal case, that burden of proof rests
6 squarely on the shoulders of the government, I submit to you
7 there is no possible way in the furthest reaches of your mind
8 that you could conclude that that \$20,000 paid to Book
9 Richardson by Jeff D'Angelo was in any way ever a legitimate
10 bribe or gratuity by Christian Dawkins for some future favor to
11 be returned by a guy who Christian Dawkins said was going to
12 send him players anyway.

13 And just as ridiculous as it would be to suggest that
14 that money was ever paid to Book Richardson by Christian
15 Dawkins with some corrupt intent would be to suggest that,
16 based on that evidence, Christian Dawkins engaged in a scheme
17 to defraud the University of Arizona in connection with this
18 scheme to deprive the University of Arizona of its intangible
19 rights to the honest services of Book Richardson. In fact, did
20 anyone from the University of Arizona even testify in this
21 case? Ladies and gentlemen, simply put, there is no possible
22 way from what the evidence in this case is, and not chopped-up
23 transcripts, the audio evidence in this case, that Christian
24 Dawkins committed any crimes associated at all with Book
25 Richardson. Ask yourselves, after hearing that evidence and

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Summation - Mr. Haney

1 that chronology and those pages of the book that the government
2 pulled out, how you could have any reasonable doubt as to the
3 intentions of what Jeff D'Angelo did with Book Richardson.

4 If you listen to that call, ladies and gentlemen,
5 again, that Government Exhibit 104, and if you give Christian
6 Dawkins one minute and 52 seconds of your life, the defining
7 reasonable doubt, I submit, will be unnecessary because I
8 submit to you there has never been a more obvious answer than
9 what is represented by the evidence that you hear on that
10 wiretap phone call as to my client's intent and the charges as
11 they related to Book Richardson.

12 Now, we hear from the evidence in this case the same
13 day that Book Richardson went over to meet with Jeff D'Angelo
14 on June 20, Christian Dawkins calls up his good friend,
15 Mr. Code. He tells Mr. Code exactly the same thing he tells
16 Book Richardson. He tells him what the play is going to be,
17 and they're laughing about how they're going to hustle money
18 out of the undercover agent Jeff D'Angelo. Just like with
19 Book, on the way over to that meeting with Jeff D'Angelo,
20 there's a recording of it.

21 Let's hear Government Exhibit 103.

22 (Audio played)

23 MR. HANEY: Again, that doesn't need any
24 interpretation. I don't need Marty Blazer to say what that
25 meant. I don't need a transcript with portions of it omitted

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Summation - Mr. Haney

1 for you to understand what those guys were talking about. We
2 know undeniably from what we just heard that Christian Dawkins
3 is telling Merl Code as he's on the way to go meet with Jeff
4 D'Angelo that there's nothing really complicated about the
5 situation. Just bring up some names of some kids that you
6 think you can get involved with. Merl says: Who, like who
7 should I mention?

8 And Christian Dawkins says: They're not going to know
9 who the fuck, Merl. You can say anybody. I mean, I'm not
10 trying to be funny here. You're not dealing with Sonny
11 Vaccaro. Again, making fun of Jeff D'Angelo.

12 In response you hear Merl Code laugh. Again, you can
13 listen to it when you deliberate. Laughter doesn't show up on
14 a transcript, ladies and gentlemen. Merl laughs and says:
15 Well, I could say Zion Williamson knowing good and goddamn well
16 not going to get him.

17 Why are they laughing? Why just tell Jeff D'Angelo
18 any old name? Because this FBI agent in charge of this massive
19 federal college basketball case apparently doesn't know
20 anything about basketball, and Merl Code can tell him literally
21 any name, and he won't know, as you heard from the call.

22 And then Christian Dawkins says, I just want to get
23 some money in your pocket, just like he just wanted to get some
24 money in the pocket of his friend Book Richardson. Does that
25 give you reasonable doubt?

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Summation - Mr. Haney

1 You then hear Christian Dawkins and Merl Code laughing
2 of how they can get Jeff D'Angelo over to a Knicks game and
3 introduce him to some NBA players and impress him some more so
4 they can hustle more money out of him. Ladies and gentlemen, I
5 submit to you, understanding the burden of proof, and the
6 defense has no burden, but you must be moved beyond a
7 reasonable doubt. You can listen to these two calls between
8 Christian's two friends, Book Richardson and Merl Code, and you
9 can't arrive at any other decision or determination of what
10 their intentions were.

11 The government asked you in their opening statement to
12 use your common sense. Well, listen to the calls. Listen to
13 the laughter. Listen to the mockery. Listen to the sarcasm.
14 Is this embarrassing to the government? You bet it is. You
15 can tell it is because the government didn't want you to hear
16 those calls. Christian Dawkins and Merl Code conspiring to
17 bribe, scheming to defraud, violating federal crimes? You got
18 to be joking. The evidence is overwhelming. And though the
19 defense has no burden of proof, there is no question the
20 intentions of Christian Dawkins, Merl Code, and Book Richardson
21 on June 20, 2017, were they were going to go along with
22 Christian Dawkins' play on a young dude with the bread and take
23 his money, period. That's the evidence in this case, and the
24 government has not and cannot show otherwise, and they never
25 will.

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Summation - Mr. Haney

1 When you listen to these calls and you hear the
2 laughter, does it give you doubt? The government wants you to
3 believe, as they've said during the course of this trial and in
4 their closing argument, that Christian and Merl were being
5 clandestine and paranoid and they were sneaking around, and
6 that's an admission of their guilt. I guess we finally do
7 agree on something. Christian Dawkins and Merl Code were
8 clandestine and paranoid and sneaking around. Why? Because
9 they didn't want the NCAA to find out what they were doing.
10 Again, use your common sense. The government wants to trick
11 you and find buzz words like "federal" and "indicted," but you
12 know better.

13 MR. BOONE: Objection.

14 THE COURT: Sustained.

15 MR. HANEY: This has nothing to do with a possible
16 belief that any of what they were doing could be considered a
17 federal crime. You heard testimony from the University of
18 South Carolina, the first witness who testified in this case,
19 Chance Miller, who used to work for the NCAA. He's an attorney
20 at the University of South Carolina. When I asked him in his
21 experience as a lawyer for South Carolina and the NCAA, if he
22 considered this conduct to be --

23 MR. BOONE: Objection.

24 MR. HANEY: -- a federal crime -- it was testimony,
25 your Honor.

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Summation - Mr. Haney

1 THE COURT: Go ahead.

2 MR. HANEY: I asked him would he consider this conduct
3 to be a federal crime. He said no. So if the attorney from
4 the University of South Carolina, who's a trained lawyer, used
5 to work for the NCAA, didn't feel this was a federal crime, why
6 would Christian Dawkins and Merl Code or, for that matter, you?

7 MR. BOONE: Objection.

8 THE COURT: Sustained.

9 MR. HANEY: Now, we all know from the evidence, with
10 no doubt or opposition, on the date of June 26, 2017, six days
11 after Christian Dawkins told his good friends Merl Code and
12 Book Richardson what the play should be to hustle money out of
13 Jeff D'Angelo, Christian Dawkins calls Jeff D'Angelo, and they
14 disagree about the merits of Jeff D'Angelo's coaches' model.
15 And you can listen to that call. It's admitted into evidence
16 as Defense Exhibit 3, which is unequivocal that during that
17 call Christian Dawkins tells Jeff D'Angelo: "I don't even
18 think you can do that, Jeff. I think what you do -- see, this
19 is the thing, if you think about it -- I look at it from a
20 business perspective where I've been, before getting into shit
21 and just fucking raining money, it doesn't make common sense."

22 On this call, I submit Christian Dawkins is begging
23 Jeff D'Angelo to listen to him, explaining how the model of
24 paying college basketball coaches simply makes no business
25 sense. It's on the phone call; it's on the wiretap. He even

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Summation - Mr. Haney

1 uses the words to Jeff D'Angelo, "it doesn't make common
2 sense." And the government wants you to forgot this evidence.
3 They want you to discount it and say that what it really sounds
4 like is he would rather have Marty Blazer and Munish Sood
5 interpret for you what such obvious plain English means.

6 You heard, when Christian Dawkins testified, he tried
7 every possible way to get Jeff D'Angelo off the idea of paying
8 coaches. It was, as Christian Dawkins called it, it wasn't the
9 end-all, be-all. And even the government's own cooperating
10 witness Munish Sood, testifying for the government in hopes of
11 avoiding potentially 35 years in prison, he said, "Jeff just
12 wants to do a bunch of coaches."

13 Then only two days later, ladies and gentlemen, on the
14 date of June 28, 2017, just as I promised in my opening
15 statement, we saw the seminal moment between Christian Dawkins
16 and this young, socially awkward business partner named Jeff
17 D'Angelo, the dude who wasn't smooth, the kid who sat across
18 the table from the cool kids at lunch, as Christian Dawkins
19 said, and the government concealed this call from you during
20 this closing argument.

21 MR. BOONE: Objection.

22 THE COURT: Sustained.

23 MR. HANEY: The government didn't want you to think
24 that this --

25 MR. BOONE: Objection.

J56HDaw1

Summation - Mr. Haney

1 THE COURT: Overruled.

2 MR. HANEY: In fact, on June 28, 2017, ladies and
3 gentlemen, I submit that this conversation with Christian
4 Dawkins speaks for the case entirely. On that date on June 28,
5 2017, listen to the call. You can literally hear the anxiety
6 and panic in Jeff D'Angelo's voice. When you deliberate, you
7 can request to hear that call admitted as Defense Exhibit 5,
8 and the transcript of that call is Government Exhibit 108T.
9 Listen to the utter panic in Jeff D'Angelo's voice. As I
10 submit to you, at that point on June 28 he is realizing the
11 entire government coaches bribery case is about to fly out the
12 window. Listen to Jeff D'Angelo as we did in the courtroom
13 when that portion of the call is played during the trial.
14 Ladies and gentlemen, when Jeff D'Angelo realizes this
15 20-something-year-old kid with no apparent moral compass, a kid
16 who openly pays college basketball players and their families
17 because, in his opinion, they deserve it, a kid spawned
18 literally from the cesspool of athlete agency corruption, ASM,
19 this kid in the middle of this massive, costly, federal
20 investigation with yachts, envelopes of cash, undercover
21 agents, fancy hotel suites, and expensive liquor is on a
22 wiretap recording literally making the argument they should not
23 pay coaches. At this point I submit to you if you listen to
24 that call, ladies and gentlemen, you will come to the
25 realization at that moment, as I called it, that seminal moment

J56HDaw1

Summation - Mr. Haney

1 on June 28, Jeff D'Angelo comes to the realization that
2 Christian Dawkins is about to blow this entire undercover
3 operation.

4 When you look at the evidence and the transcripts that
5 are reflected by Government Exhibit 108T, you will find that
6 Christian Dawkins says, the coach's model has been given to
7 you, not that he gave D'Angelo the coach's model. He's telling
8 Jeff D'Angelo: "The coach's model has been given to you and I
9 think you have to see past it just a little bit, because it's
10 not the end-all, be-all, in my opinion."

11 And then Christian Dawkins says on page 6, line 10
12 through 12, and you can watch -- look at the transcript, he
13 says: "And, listen, if you wanna -- all your own coaches, God
14 bless you. I would recommend to go"...

15 And then Christian Dawkins on page 8, line 20 through
16 25, Christian Dawkins says: "So the model can work, but you
17 can't harp on the someone introducing me to coaches, because
18 that isn't always the best. If that's the point, we can just
19 honestly save the fucking money. I mean, honestly, it doesn't
20 make sense to spend it." This is Christian Dawkins telling
21 Jeff D'Angelo, don't spend money on coaches.

22 And then on page 9, line 2 through 6, Christian
23 Dawkins says: "It just doesn't -- now, if you just want to --
24 like I said, if you just want to be Santa Claus and give people
25 money, well, fuck, let's just take that money and let's just go

J56HDaw1

Summation - Mr. Haney

1 to the strip club and buy hookers."

2 And then on page 9, lines 12 through 16, Christian
3 Dawkins says: "But just to put guys -- just to put guys --
4 just to pay guys just for the sake of paying the guy because
5 he's at a school, that doesn't make common sense to me."
6 Christian Dawkins is trying to talk Jeff D'Angelo out of
7 bribing coaches.

8 Then on page 11, line 6 through 9, I submit to you the
9 most important evidence in the trial, and it's a transcript,
10 but I'm not playing Scrabble. You can listen to what he said,
11 and you can listen to the panic in his voice. You can listen
12 to him stuttering and stammering as he's trying to spit out
13 what he says on page 11, line 6 through 9.

14 (Continued on next page)

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J569DAW2

Summation - Mr. Haney

1 MR. HANEY: (Continuing) Jeff D'Angelo says to
2 Christian Dawkins: I'm with you but here's the model. The
3 coaches' model. Like we're gonna, we're -- I'm funding you,
4 your side of the business, and I'm staying out of your way and
5 you're gonna do that. You're gonna pay those college coaches
6 and I'm funding you.

7 That's the evidence in this case, ladies and
8 gentlemen.

9 Now, from the evidence and the testimony, that's plain
10 English. That doesn't need any interpretation. Jeff D'Angelo
11 has threatened to quit funding Christian Dawkins if he does not
12 pay college coaches, period.

13 My client testified, as did the government's own
14 witnesses, and their own exhibit, that Christian Dawkins was
15 supposedly the majority shareholder of Loyd Management.

16 We all know that Jeff D'Angelo and the FBI set that up
17 too. It was all a lie. They teased Christian Dawkins, with
18 bottles of Scotch, a shareholder agreement that wasn't real,
19 got him on a yacht, flashed him some cash, dangled the money in
20 front of his face and then, on June 28, 2017, told him: I'm
21 funding you, your side of the business. I'm staying out of
22 your way and you're gonna do that.

23 How does that make you feel? It shouldn't make you
24 feel real good, I submit. And whether or not you choose to
25 endorse that manipulation is a decision you all are going to

J569DAW2

Summation - Mr. Haney

1 have when you deliberate.

2 MR. BOONE: Objection.

3 THE COURT: Sustained.

4 MR. HANEY: And what we do know is that on this date,
5 the same exact day, June 28, that Jeff D'Angelo threatened
6 Christian Dawkins with his funding, Christian Dawkins calls up
7 his good friend, Merl Code, and this is what he told Merl Code.

8 (Audio played)

9 There it is. Does that need interpretation?
10 Reasonable doubt. You just heard Christian Dawkins say to Jeff
11 D'Angelo -- I'm sorry, to Merl Code: I'm not introducing him
12 to no coaches.

13 You just heard Christian Dawkins tell Merl Code: To
14 me the whole coaches' model doesn't make sense.

15 And then Christian Dawkins says: I know what I'm
16 gonna do -- Merl Code, finishes his thoughts, because they're
17 friends -- we're gonna take these fools' money.

18 What do you think they're talking about, ladies and
19 gentlemen?

20 Then Christian Dawkins says: Exactly, exactly,
21 because it doesn't make sense to me, Merl, the coaches' model.
22 I'm trying to explain that. I've tried to explain that to him
23 multiple times. This is not what you want to do. This is not
24 the way you want to go, the coaches' model. Christian Dawkins
25 tells Merl Code, that's a lot of money for no reason.

J569DAW2

Summation - Mr. Haney

1 And then later in that call, I'm going to play a
2 little small portion of that call where Christian Dawkins tells
3 Merl Code, on page 8, line 11 through 14.

4 (Audio played)

5 Let me tell you this bro, at the end of the day I
6 always try and do stuff the right way.

7 Now for Christian Dawkins the right way, paying the
8 family, playing the players, like he did at ASM in college.
9 Maybe that's not the right way. But that's what he means.
10 Those are his intentions. And he says it: They're not gonna
11 listen, fuck intake their money. That doesn't need any
12 interpretation of what his intentions were, which is not
13 bribing coaches.

14 Ladies and gentlemen, I don't know in all my years of
15 being a lawyer, three decades, I've ever been a part of a case
16 where the defendant is on a wiretap phonecall unequivocally
17 literally saying they are not going to do.

18 MR. BOONE: Objection --

19 THE COURT: Overruled.

20 MR. HANEY: -- what they are charged with conspiring
21 to do. He interrupted me. I'm going to say it again.

22 In all my years of being a lawyer, I have never been a
23 part of a case where defendants were on trial and on wiretaps
24 unequivocally literally saying they're not gonna do what they
25 are charged with conspiring to do.

J569DAW2

Summation - Mr. Haney

1 Reasonable doubt?

2 How can those words be interpreted to mean anything
3 other than what they just said?

4 This call alone, I submit to you, doesn't give you
5 reasonable doubt, it makes this entire case undoubtedly
6 unreasonable.

7 It's really, in fact, mind blowing how, based on what
8 these two guys are saying on these phonecalls, the government
9 could play that game of transcript scrabble and suggest to you
10 through witnesses facing, collectively, as they told you, a
11 hundred years potentially in a prison cell that they meant
12 anything other than what they could say.

13 And then 31 days later Christian Dawkins goes to Las
14 Vegas and he does exactly what he told Merl Code he was going
15 to do. Christian Dawkins hustles Jeff D'Angelo again. And the
16 government is mad about it. Embarrassed about it.

17 MR. BOONE: Objection.

18 THE COURT: Sustained.

19 MR. HANEY: Now they're saying he's lying about it.

20 So what happens after that, well, I don't want to get
21 lost in the governmental woods, ladies and gentlemen, it's a
22 dark and confusing place. Instead I'm going to simply tell you
23 all what the evidence is going to show and not force feed you
24 all into believing a particular narrative by pulling out pages
25 of the book.

J569DAW2

Summation - Mr. Haney

1 So, here it is. Here's a summary of the bank records.
2 And I'm not going to go through this and make all kinds of
3 argument because this is the evidence in the case, ladies and
4 gentlemen. Simply the evidence.

5 We know that based on what the government and the star
6 witness, Marty Blazer, told you on the date of July 28, 2017
7 both Preston Murphy and Corey Barker were the recipients of six
8 thousand dollar cash bribes.

9 Now, we know that when Christian Dawkins testified he
10 told you he and Preston Murphy made up a name of a player. It
11 was not an NBA draft prospect. And their intentions when they
12 did so was to give Marty Blazer and Jeff D'Angelo any old name
13 they could to hype them up just like they did Book Richardson
14 and Merl Code. The fact that two years later Christian Dawkins
15 doesn't remember every detail of what occurred is, I submit to
16 you, a desperate attempt of the government to throw mud on the
17 wall and see if it will stick.

18 Don't fall for that. You as jurors are allowed and
19 encouraged to use your common sense, your life experience, your
20 own personal knowledge as you determine credibility and
21 determine and weigh the evidence in this case.

22 And I know we got sports fans on this jury. So I
23 submit that you all know who may have that personal knowledge
24 how ridiculous it would be to suggest that anyone ever would
25 pay a cash bribe to a coach at Creighton or a coach at

J569DAW2

Summation - Mr. Haney

1 Cleveland State or Christian Dawkins' father. And in order to
2 do so, for Preston Murphy to get that money, Christian Dawkins
3 did and Preston Murphy did make up a name of a player they knew
4 was never going to play in the NBA.

5 Now we know also the government told you on the date
6 of July 29, 2017 coach Tony Bland allegedly was the recipient
7 of a \$13,000 cash bribe. We also know, based on the evidence
8 in this case, on the date of August 31, 2017 undercover FBI
9 agent Jill Bailey, while at the LAX Hyatt Hotel gave Christian
10 Dawkins \$5,000 in an envelope for a cash bribe to be paid to
11 the uncle of a recruit from USC. You see under the bank
12 records, cash payments, that would be David Elliot.

13 Ladies and gentlemen, all you have to do is look at
14 the bank records and note that's a \$28,500 amount. All you
15 have to do is look at the bank records in evidence and you can
16 see the exact same day Preston Murphy and Corey Barker were
17 paid there was a \$5,000 deposit made at the Bank of America.

18 And if we could insert slide 1401E.

19
20 The exact same day Tony Bland was allegedly bribed,
21 there was also a deposit made at a Las Vegas ATM machine in the
22 amount of \$8,900.

23 Can you blow that up. Thank you.

24 The exact same day FBI agent Jill Bailey told
25 Christian Dawkins to pay a cash bribe to the uncle of the USC

J569DAW2

Summation - Mr. Haney

1 recruit there was a deposit made at an Englewood ATM right down
2 the street in the amount of \$11,400, you can see it right
3 there, on August 31, 2017.

4 So, ladies and gentlemen, there is the math.

5 If we can go back to the bank summary, if we could.

6 Did Munish Sood tell you he made those deposits when
7 he testified? No.

8 Did Jeff D'Angelo tell you he made those deposits?
9 Did Marty Blazer who had no access to the bank records, did he
10 make those deposits? No.

11 Did Jill Bailey? Did she testify she made those bank
12 deposits? No.

13 They didn't because the government knows Christian
14 Dawkins made those bank deposits and there's proof of it. And
15 that destroys their entire case: The bank records and
16 Christian Dawkins telling Merl Code 31 days earlier: I ain't
17 paying no coaches; they don't listen to me, I'm gonna take
18 their money

19 In fact, the government did show, with the Princeton
20 Advisory Group deposit on August 3, 2017. If there was a
21 counterdeposit made with a check, then there would be an image
22 of that check, as they showed you.

23 Christian Dawkins, ladies and gentlemen, did exactly
24 what he said he was gonna do. They don't like it. They
25 shouldn't.

J569DAW2

Summation - Mr. Haney

1 But don't fall for the games, ladies and gentlemen.

2 Yes. Christian Dawkins said his only source of income
3 he had was through Loyd Management.

4 Yes. That did include from time to time other people
5 dropping dirty money on occasion into that account too.

6 But I'm sorry, ladies and gentlemen, the egg is not
7 coming off the face. It's been there too long. I would
8 suggest you simply look at the mountain of evidence that
9 concludes that Christian Dawkins did not bribe coaches. He did
10 exactly what he said he was going to do on June 28, after Jeff
11 D'Angelo threatened to put him out on the streets. And whether
12 the government likes it or not, those bank records prove it or
13 at the very least raise substantial doubt, let alone reasonable
14 doubt, of the government's claims of what occurred.

15 Ladies and gentlemen, what we saw from the government
16 was exactly what we expected. I submit exceedingly predictable
17 and I also submit exceedingly underwhelming. The government
18 inundated you with weeks of phonecalls, transcripts, e-mails,
19 and text messages, showing rampant NCAA rules violations. They
20 played grainy videos of hotel meetings, wiretaps of guys using
21 bad language talking breaking rules, just like we told you they
22 would.

23 And very shortly you're going to go into that room,
24 and you're going to go into that room, but this time it's going
25 to be a little different. This time you're going to enter that

J569DAW2

Summation - Mr. Haney

1 room and make one of the most important decisions of your life.
2 I don't know you all. I know you've made some big decisions on
3 who to marry, perhaps, children, houses to buy. But this is a
4 little different this time, ladies and gentlemen. Because this
5 decision will affect another human being's life. Simply put,
6 another life hangs in the balance on the decision you will
7 make.

8 Don't forget the law is your guide and this is a
9 nation of laws. And all citizens, everyone, including you, are
10 protected by those laws. And all citizens facing a criminal
11 prosecution are presumed innocent until the government can
12 prove their case beyond a reasonable doubt.

13 And as you deliberate and ponder this case you will
14 have the jury instructions. And I submit with all the doubt in
15 your mind you have at this moment, remember a jury instruction
16 that was read to you, ladies and gentlemen, that a violation of
17 a NCAA rule is not a violation of law. And the fact that a
18 coach's conduct violates the rules, policies, or codes of the
19 NCAA or his employer, does not necessarily mean there is a
20 scheme to defraud. That's in your instructions.

21 This is not a case, as I told you in my opening
22 statement, of whether Christian Dawkins was wrong about what he
23 did to the FBI. This is a case of whether or not Christian
24 Dawkins paid cash bribes to the college coaches alleged in the
25 indictment and thereby caused them to violate the honest

J569DAW2

Summation - Mr. Haney

1 services that they owed to their respective universities. And,
2 most importantly, this is a case if, based on what you've heard
3 over the last two weeks you are convinced beyond a reasonable
4 doubt that he is a guilty man.

5 I will end with this, ladies and gentlemen. For as
6 you have seen, we're at a point in time now where the
7 government is asking you to participate in this prosecution.
8 They can't do it on their own. They need you to finish it up
9 for them.

10 MR. BOONE: Objection.

11 THE COURT: Overruled.

12 MR. HANEY: They need you all to finish out this
13 prosecution. They need you all to get on the yacht right now
14 with Jeff, Jill, and Marty, asking you all to set sail.
15 Believe for a minute that this massive FBI investigation, the
16 yachts, hotels, expensive liquor, turncoat government
17 informants could possibly be worth the ask of convicting
18 Christian Dawkins.

19 I submit this is your time, now, to stay on the dock
20 and don't make the same mistake Christian Dawkins did. Tell
21 the government no, thank you. Tell the government bon voyage,
22 Jeff D'Angelo; anchors up, Ms. Bailey; Marty Blazer, anchors up
23 and, ladies and gentlemen, find Christian Dawkins not guilty.

24 Thank you.

25 THE COURT: Thank you, Mr. Haney.

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1 MR. HANEY: Thank you, your Honor.

2 THE COURT: Ladies and gentlemen I'm going to take a
3 ten-minute break. So please be prepared to come back out at
4 five minutes after the hour.

5 Please watch your step as you're stepping out. I
6 understand there's a new wire there.

7 Don't discuss the case.

8 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Everyone please be seated. Don't be late.

3 MR. MOORE: Your Honor, could I mention one point.

4 Without sounding like a broken record, but I guess I need to
5 make a record. I was watching juror number three again because
6 I can't help it, she's directly in my line of sight. I noticed
7 on least three occasions during Mr. Haney's closing, I don't
8 think she was closing her eyes because her eyes were closed
9 more often than not, it seems; but her head dropping and
10 nodding. And I pointed it out to Mr. Chaney who noticed it as
11 well.

12 I have to renew my request to excuse her and replace
13 her with an alternate who is obviously paying attention.
14 Defense closing arguments are -- every phase of this trial is
15 very important but defense closing arguments are very
16 important.

17 MR. SOLOWIEJCZYK: Your Honor, we did not observe
18 that. I was actually trying to look at her repeatedly as, I
19 think, my colleagues were. That's not what we observed.

20 So I mean Mr. Moore is just not seeing what we're
21 seeing. Your Honor has a better vantage point.

22 THE COURT: I didn't see that either. And, again, the
23 screens are below eye level and Mr. Haney used a lot of
24 transcripts, etc., and so eyesight was necessarily directed
25 downwards and so the objection -- I mean she will not be

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1 removed, at least not at this point.

2 MR. CHANEY: Your Honor, just to supplement, Mr. Moore
3 did speak for me. I did notice her head falling as well.

4 MR. SOLOWIEJCZYK: Your Honor, before Mr. Moore's
5 closing there were two things that Mr. Haney said, a number of
6 things we found highly objectionable. There were two that we
7 think may require a curative instruction. The first is -- and,
8 you know, that's why we asked Mr. Haney what he was going to
9 say specifically about uncalled witnesses. But the argument
10 that was made, it was left in the jury's mind that the fact
11 they didn't hear from these witnesses that they could actually
12 infer something from it. So we have a proposed curative on
13 that.

14 And then the even more objectionable argument was that
15 they could somehow conclude something based on what the
16 University of South Carolina representative testified as to
17 whether he believed this constituted a federal crime or not.
18 That's the ultimate issue in the case. And, obviously, they
19 should not be able to take the testimony from that
20 representative and somehow use it to let them conclude what the
21 proper conclusion here is as to the application of the law to
22 the facts.

23 MR. HANEY: May I respond briefly?

24 THE COURT: Sure.

25 MR. HANEY: Your Honor, I did nothing other than state

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1 what his testimony represented and that's the evidence in this
2 case. That's what he said. They objected when I asked him the
3 question.

4 THE COURT: You didn't just say what he said. You
5 then went on to argue: If he didn't think that that was a
6 crime, then how can you, basically. I'm paraphrasing.

7 MR. HANEY: I understand that. It is closing
8 argument, your Honor. I'm not used to being objected to
9 multiple times during closing argument.

10 THE COURT: They were sustained 98 percent of the time
11 too, Mr. Haney.

12 MR. HANEY: I understand. I tried to stay away from
13 what I promised them I would stay away from. It was a long
14 closing argument. But I believe at least in good faith told
15 them I would steer clear from the things that they really had
16 an issue and I believe I did.

17 MR. SOLOWIEJCZYK: Your Honor, if I could read the two
18 proposed curatives for your Honor's consideration.

19 THE COURT: Do you have them?

20 MR. SOLOWIEJCZYK: I only have them on my phone right
21 now.

22 THE COURT: Can you provide a hard copy? But what are
23 they?

24 MR. SOLOWIEJCZYK: You heard certain arguments from
25 Mr. Haney about certain witnesses that were or were not called.

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1 I want to remind you that the individuals that were referred to
2 by Mr. Haney were equally available to all parties and it is of
3 no concern of yours why certain witnesses were or were not
4 called. Your only concern is whether the evidence you heard in
5 this trial establishes each element of the offenses you are
6 considering beyond a reasonable doubt.

7 THE COURT: OK.

8 MR. SOLOWIEJCZYK: The second one is.

9 You heard arguments from Mr. Haney regarding the
10 testimony of a representative from the University of South
11 Carolina about whether that witness believed -- actually one
12 moment, your Honor.

13 (Counsel confer)

14 MR. CHANEY: Your Honor, on that issue I believe
15 Mr. Haney did use that argument for a permissible purpose,
16 which was for the jury to consider that fact in assessing
17 whether or not consciousness of guilt had come before them with
18 respect to whether Mr. Code or Mr. Dawkins believed that their
19 conduct was, in fact, a violation of NCAA violations and would
20 behave a certain way because of that but that that was not
21 coextensive with them believing that their conduct violated
22 federal law. So there was a permissible reason to make the
23 argument, regardless of whether or not Mr. Haney took the next
24 step.

25 MR. SOLOWIEJCZYK: I mean we can tweak this but the

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1 upshot was whether the witness believed certain conduct was or
2 was not criminal is how I heard Mr. Haney at least referencing
3 it. And that witness was not called as an expert. His views
4 on legal issues are not entitled to any particular weight.
5 You're not permitted to infer based on his personal views any
6 particular knowledge or mind-set of any person including the
7 defendants. The determination of whether the government has
8 established beyond a reasonable doubt that these defendants
9 committed the offenses which they are charged with is solely up
10 to you.

11 So I think the point is, and we can tweak the
12 language. They can't infer anything from whether or not this
13 witness ever thought of this conduct as a federal crime or not.

14 MR. MOORE: Your Honor, what I would say is I would
15 ask your Honor to wait until all of the summations today
16 because we may be objecting to Mr. Boone and we may be asking
17 for curative instructions from Mr. Boone. And perhaps
18 Mr. Boone, of course, gets the last word and he can make
19 comments based on what your Honor's earlier instructions are.

20 Your Honor gave a missing witness instruction. The
21 jury has that missing witness instruction. Why you need to
22 remind them of that I don't know at this stage.

23 I'm going to be talking about that issue too. But I'm
24 going to use your instruction.

25 THE COURT: OK. Why don't you e-mail me that language

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1 to chambers, Mr. Solowiejczyk.

2 MR. SOLOWIEJCZYK: OK. Thank you.

3 THE COURT: I won't give it now.

4 MR. SOLOWIEJCZYK: OK.

5 THE COURT: OK. You've got three minutes.

6 (Recess)

7 THE COURT: About 45 minutes, Mr. Moore?

8 MR. MOORE: I think it's going to be an hour, your
9 Honor. But I am going to try, I think, very much to stay under
10 it.

11 (Continued on next page)

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Summation - Mr. Moore

1 (Jury present).

2 THE COURT: Ladies and gentlemen, at this time we will
3 continue with the summation on behalf of Mr. Code.

4 Mr. Moore.

5 MR. MOORE: Thank you, your Honor.

6 May it please the Court, counsel, ladies and gentlemen
7 of the jury, in order to prove Merl Code guilty of conspiring
8 to do any of the crimes alleged in this indictment but
9 particularly to bribe college coaches the government has to
10 prove beyond a reasonable doubt that he knowingly and willfully
11 joined the alleged conspiracy for the specific purpose of
12 paying these coaches, getting them to do something that their
13 employment agreements forbid them from doing.

14 And to do that and to prove the other crime alleged in
15 the instant here, which is the 666 violation, which I'll talk
16 about in a minute, they have to get into his mind and prove his
17 intent. Because the essence of a conspiracy charge is an
18 agreement. And they primarily rest their case on snippets of
19 conversations from the June 20, 2017 meeting at the Conrad
20 Hilton and speculatively and conveniently and eerily similar
21 pro government interpretations of that meeting, not from an FBI
22 agent, but from two convicted fraudsters and admitted liars.

23 Well, ladies and gentlemen, you heard during the
24 defense case for the first time that after this meeting on
25 June 26 and June 28 Christian Dawkins and Jeff D'Angelo had

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Summation - Mr. Moore

1 spirited discussions about what role, if any, Merl Code was
2 going to play in Loyd Management. And Jeff D'Angelo, the guy
3 whose job it is to try to get Merl Code to say incriminating
4 things, had some very specific comments about what he thought
5 Merl Code's agreement was or was not. And so, ladies and
6 gentlemen, if Christian and Mr. D'Angelo were arguing about the
7 role of Merl Code on June 26 and 28, how did Merl Code reach an
8 agreement with anybody to do anything that the law forbids
9 that's alleged in this case on June 20?

10 Now, as I said before, the first time you heard about
11 these calls was over a week into this trial. Any mention or
12 discussion of these calls was glaringly absent from the
13 government's case as it was glaringly absent from
14 Mr. Solowiejczyk's summation, just as Mr. D'Angelo was
15 glaringly absent from the government's case. And instead of
16 having you see and hear Mr. D'Angelo, the government brought
17 you two serial fraudsters and admitted liars to interpret
18 recordings for you in an effort to convince you that Merl Code
19 is guilty. And, ladies and gentlemen, I submit that is not
20 proof beyond a reasonable doubt.

21 One of the things that Mr. Solowiejczyk mentioned sort
22 of near the end of his closing argument was this theory of
23 conscious avoidance, willful blindness. Well, ladies and
24 gentlemen, if that's what they rest their case against Merl
25 Code on -- and we're going to talk about that in a few

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Summation - Mr. Moore

1 minutes -- I submit to you that the government's argument to
2 you last week and their entire case with respect to Merl Code
3 is based on a consciousness of doubt, their own doubt about the
4 strength of this evidence.

5 Now, ladies and gentlemen, his Honor, who is the judge
6 of the law in this case, told you, both at the beginning of
7 this case and at the jury charges at the end that Mr. Code is
8 presumed innocent and the government bears the burden of
9 proving him guilty beyond a reasonable doubt. He has no
10 burden.

11 This is a criminal case. It's not a civil case.
12 We're not here for a contract dispute. And because this is a
13 criminal case, before the government can take away Merl Code's
14 good name and perhaps his freedom, they have to prove to each
15 and every one of you beyond a reasonable doubt that he
16 committed the crimes charged.

17 And ladies and gentlemen, based on the evidence that
18 you heard in this case, but also based on the evidence that you
19 didn't hear from the government, I submit that this case is
20 riddled with reasonable doubt with respect to Mr. Code.

21 Now, in a few minutes I'm going to talk to you a
22 little bit about the evidence in this case and I'm going to
23 first discuss the evidence and the law that were absent from
24 Mr. Solowiejczyk's summation.

25 And I'm going to ask you, each of you, ladies and

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Summation - Mr. Moore

1 gentlemen, when you go back to this jury room and you think
2 about the evidence, when you think about evidence that casts
3 doubt, reasonable doubt on the government's case, ask yourself
4 why it's the first time you heard that during defense
5 presentations.

6 Now, as I said, the burden is on the government to
7 prove beyond a reasonable doubt that Mr. Code committed the
8 crimes he's charged with. He does not have to explain away
9 every piece of evidence that the government contends points to
10 guilt. However, the government does have to account for every
11 piece of doubt-producing evidence.

12 Did they do that? Ladies and gentlemen, we submit the
13 answer is no.

14 Can they do that? Ladies and gentlemen, we submit the
15 answer is no.

16 There is evidence in this case that the government
17 simply cannot explain away, evidence that in no uncertain terms
18 could cause not only reasonable doubt but permanent doubt.

19 Now, you met me a couple of weeks ago in this
20 courtroom when Judge Ramos introduced me. My name is Mark
21 Moore. I'm a lawyer from South Carolina. I'm here with two
22 other lawyers from South Carolina, Mr. Chaney and Mr. Mathias,
23 whom you met.

24 You might be happy to remember that you didn't hear
25 from me at all during the first week of this trial. I sat

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Summation - Mr. Moore

1 patiently in my chair because during the first week of this
2 trial you didn't hear a whole lot about Merl Code, OK. And for
3 substantial time periods during this two-week trial you just
4 didn't hear much about Merl Code.

5 But I'm here to address the evidence here. And, like
6 Mr. Code, I live in South Carolina. And I practice law in
7 Columbia, where I myself had the honor of representing the
8 United States for 23 years.

9 Now, Mr. Solowiejczyk, in his closing, spent a minute
10 or two on his burden of proof. He acknowledged that he had
11 one. Didn't spend a whole lot of time talking about what a
12 substantial burden it was.

13 And as Judge Ramos told you in his remarks to you, the
14 government is a party here and because they are a party here
15 they are not entitled to any greater or any lesser
16 consideration.

17 But they are hardly an ordinary litigant. They
18 represent the citizens of the United States of America. All of
19 us. And because they do, their job is to seek justice, not
20 just convictions.

21 They have tremendous resources. And you heard a lot
22 about the resources they used in this investigation. Two
23 undercovers in New York here on a yacht; and at the Conrad
24 Hilton in Las Vegas, at the Cosmo Hotel; in Arizona; and South
25 Carolina, my hometown of Columbia; and Los Angeles. But there

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Summation - Mr. Moore

1 is no evidence, however, that they used a routine evidence
2 gathering technique called surveillance to document exactly
3 what happened after Mr. Blazer, Mr. Sood, and UC1 and UC2 did
4 the things you heard about on direct.

5 And while, as Judge Ramos has told you, the government
6 is not on trial here and there is no requirement that they use
7 a particular investigative technique, you can consider not only
8 evidence that you heard but what you didn't hear in reaching
9 your verdict and in using your own good, common sense and your
10 own collective judgment and your life experiences.

11 I mentioned resources for a reason. We're here in
12 New York, OK. The Big Apple. And I'm reminded of a line from
13 a comic book that I used to read as a child, Spider-Man, where
14 Peter Parker, a fictional New Yorker, is told by his Uncle Ben
15 that with great power comes great responsibility. It's
16 absolutely accurate. And among the responsibilities the
17 government has here to prove their case by the highest level of
18 proof known in our system, beyond a reasonable doubt.

19 You will recall Judge Ramos told you during his charge
20 to you that a reasonable doubt is something, and you will have
21 your instructions, but my recollection is what he told you is
22 that a reasonable doubt is something that would cause a
23 reasonable person to hesitate to act in an important affair.

24 Now, the drafters of our Constitution imposed juries
25 for a reason, because before the government can take away a

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Summation - Mr. Moore

1 person's good name and his or her liberty, it's not enough, as
2 they used to do back in England, for the king to make an
3 accusation and somebody to say guilty, off to jail.

4 Here, before the government can take that away from a
5 person you, ladies and gentlemen, have to decide that they have
6 proven their case beyond a reasonable doubt.

7 In the English and Scottish systems there are three
8 verdicts: Guilty, not guilty, and not proven. In our system,
9 not guilty and not proven are the same thing. Not guilty means
10 not proven.

11 And the government, again, must exclude each and every
12 reasonable doubt in each and every one of your minds before you
13 can find Mr. Code guilty.

14 And at the end of this case if you're left wondering
15 why Mr. Code did something, what was in his head, if the
16 government doesn't prove to you with the evidence they brought
17 to you beyond a reasonable doubt what was in his head, then you
18 have to acquit him because, as Judge Ramos told you early in
19 this case, and at the end of this case -- there are multiple
20 judges in this courtroom. He is the judge of the law but you,
21 ladies and gentlemen, are the judges of the facts. And as the
22 judges of the facts, you're not accountable to anyone for your
23 verdict except perhaps your own conscience.

24 Mr. Code thanks you for being a fair and impartial
25 juror. Like Mr. Haney, I've watched you because I have a

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Summation - Mr. Moore

1 vantage point that lets me look straight at you. And please
2 understand that we know the sacrifices that you made and we
3 appreciate very much your time, your careful consideration and
4 the fairness and impartiality that you bring to a decision that
5 will affect him and his family forever.

6 No, I'm going to talk about the evidence in a moment.
7 But when we talk about the evidence I'd like you or I'd ask you
8 to remember this one quote from Ralph Waldo Emerson who said,
9 "What you do speaks so loud that I cannot hear what you say."
10 That phrase has been interpreted or turned on its head perhaps
11 to say sometimes, "Actions speak louder than words." We've all
12 heard that phrase, have we not, ladies and gentlemen?

13 Because every single charge against Mr. Code requires
14 the government to prove beyond a reasonable doubt that he
15 corruptly intended for college basketball coaches to receive
16 payment in exchange for favors. You not only have to look at
17 the words and, as the government would have you do, the
18 interpretation of those words from two convicted fraudsters and
19 admitted liars, you have to look at the conduct.

20 Now, so what does Merl Code's conduct reveal? Ladies
21 and gentlemen, we submit to you it reveals an absolute lack of
22 intent to cause coaches to receive payments in exchange for or
23 to reward or influence their decision with respect to a matter
24 that affected their performance as university employees.

25 To begin with, ladies and gentlemen, you heard no

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Summation - Mr. Moore

1 evidence that Mr. Code personally paid any coach. There was no
2 evidence that Mr. Code was present when any coach was paid.

3 Third, I remind the government, they did not introduce
4 that Mr. Code did not introduce a single coach to Mr. D'Angelo
5 and his coterie of folks who actually received and accepted
6 money in exchange for anything. None of the coaches that Merl
7 Code introduced ever took a single solitary dime.

8 Now, Mr. Solowiejczyk in his closing, despite that
9 fact, called folks like Steve Smith, who never took a dime,
10 corrupt. Remember that. Mr. Solowiejczyk says that if you
11 meet somebody in a hotel room and you engage in a discussion
12 that might talk about the fact that players might get paid, you
13 are corrupt.

14 If Merl Code intended for any coaches to be paid,
15 don't you think he would have at least done one single thing in
16 the several months he's alleged to have been on the paying
17 coaches team to accomplish that desire? But he didn't. He
18 didn't go to Miami. He didn't go to Tucson. He didn't go to
19 Atlanta. He didn't go to Los Angeles. He didn't go to
20 Morgantown, some -- West Virginia, some of the places that we
21 visited over the last two weeks through evidence. And he
22 didn't go to Columbia, South Carolina, my hometown, a place
23 that's less than a two-hour drive from his hometown, to attend
24 the PJ Dozier draft party a couple of days after the June 20
25 meeting.

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Summation - Mr. Moore

1 Now, if Merl Code entered into an agreement to pay
2 college coaches and one of those coaches was Lamont Evans and
3 Mr. Code was all in on that plan, as was suggested, then why
4 wasn't he at the PJ Dozier draft party because, as the
5 government contends, because he knew, perhaps, that someone had
6 paid Lamont Evans in the past, he's a coconspirator.

7 Well, ladies and gentlemen, let me hit that square
8 head on. Just because you know that somebody may have done
9 something in the past or someone is doing something now doesn't
10 make you guilty. It doesn't make you a coconspirator.

11 The United States of America has to prove beyond a
12 reasonable doubt that Mr. Code knowingly and willfully entered
13 into an agreement and with respect to the 666 count which is
14 Count Two, which says that he was involved in bribe payments
15 from at least 2016 up to, including in or about September 2017.
16 He made bribe payments or he assisted in making bribe payments
17 to an unspecified coach. I guess we're left to consider and
18 conjecture, as we've been left to consider and conjecture much
19 about the government's case, which coaches the government is
20 talking about with respect to Mr. Code.

21 Merl Code didn't go to Las Vegas. So coaches that he
22 introduced to these folks went to Las Vegas. He wasn't there.
23 And not a single one of them took money. If this was so
24 important, OK, and Mr. Code was all in on this plan to bribe
25 coaches, then why wasn't he in Las Vegas instead of being at a

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Summation - Mr. Moore

1 family vacation with his family in Orlando? That was a whole
2 lot more important to him than being in Las Vegas.

3 And Mr. Solowiejczyk told you that our argument was
4 that Merl Code was just paid to make introductions and that
5 making introductions is still a crime.

6 Think about that for a minute. Making introductions
7 is a crime? Making introductions for the specific purpose of
8 having those coaches accept bribes might be a crime but there
9 is no, zero -- no evidence of that.

10 Mr. Solowiejczyk and his team cannot prove that Merl
11 Code did anything to arrange or facilitate an agreement to a
12 payment.

13 Now, whether the payments that occurred are, in fact,
14 bribes is a question you need to resolve more for Mr. Dawkins
15 than for Mr. Code, but the bottomline is the folks who received
16 money were Lamont Evans, Book Richardson, Tony Bland, Corey
17 Barker, and Preston Murphy.

18 And you've heard Mr. Dawkins tell you what happened
19 with respect to the money that was paid in Las Vegas. You
20 haven't heard a single piece of evidence that contradicts it,
21 ladies and gentlemen.

22 OK. Merl Code didn't arrange a meeting with Lamont
23 Evans, OK. And these meetings with Lamont Evans happened long
24 before the June 20 meeting. Merl Code didn't arrange a meeting
25 with Book Richardson. He didn't arrange a meeting with Tony

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Summation - Mr. Moore

1 Bland. He didn't arrange a meeting with Corey Barker and he
2 didn't arrange a meeting with Preston Murphy.

3 Every witness in this case brought by the government
4 and the defense has testified unequivocally that those coaches
5 who took money were brought into the mix by Mr. Dawkins.

6 Of course, I submit that there is no evidence that
7 those coaches who took money did so for -- with the intent of
8 doing what the government says they did. And I would notice
9 you haven't heard from any of those coaches about their intent.
10 And I will say this. His Honor gave you a missing witness
11 instruction, OK. A missing witness instruction says that these
12 witnesses are equally available to both sides, OK. Well, think
13 about why -- whether the defendants would even think about
14 calling Jeff D'Angelo.

15 And remember this. We, Mr. Code and Mr. Dawkins, have
16 no burden of proof. The United States of America has the
17 burden of proof and they didn't bring Jeff D'Angelo before you.

18 (Continued on next page)
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Summation - Mr. Moore

1 MR. MOORE: (Continuing) Ask yourself why.

2 I'm not going, because I know that I'm sure the last
3 thing you want to do is hear me drone on and on about the
4 pieces of evidence that Mr. Haney has already talked about, so
5 I'll simply mention a couple of points.

6 You remember the comment about "take these fools'
7 money"? Well, if there was an agreement between Mr. Dawkins
8 and Mr. Code to do anything, it was to listen to Jeff D'Angelo,
9 to try to make this business succeed, but make this business
10 succeed without paying coaches and to make Jeff D'Angelo think
11 that everything was hunky dory, OK. That, ladies and
12 gentlemen, is not illegal. It is not, it is not, what these
13 gentlemen have charged.

14 You remember the comment about he's sleeping, don't
15 wake him up, and you remember the comments on the recordings
16 about Merl Code's actual value? What was Merl Code's value?
17 His value was in introducing young, grassroots players well
18 before they got acquainted with any college coach because he
19 managed grassroots basketball for Nike and then later Adidas,
20 and his value was also, as you heard, in his connections with
21 the NBA. Because Loyd Management was formed not just to get
22 relationships with college players, it was formed so that the
23 folks who were involved in Loyd Management could make some
24 money off signing NBA players. What better value is someone
25 than a person who has contacts in NBA front offices and with

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Summation - Mr. Moore

1 players?

2 While Mr. D'Angelo pushed Mr. Code in meetings and
3 pushed through Mr. Dawkins to get Merl Code to do what he
4 wanted him to do because, of course, Mr. D'Angelo's job is to
5 get Mr. Code to say anything that might let someone decide he
6 was down with the plan to pay coaches, the evidence in this
7 case shows that no matter how hard Jeff D'Angelo pushed, Merl
8 Code didn't bite. And the only comments that you heard on that
9 June 20 meeting which the government played for you, remember
10 what Mr. Dawkins told Mr. Code was the play going into that
11 meeting. Say what you need to say, OK, so that you can
12 demonstrate that you have some value, and we can hook you up to
13 be paid as a consultant. That, ladies and gentlemen, is not a
14 violation of the law.

15 And remember the comment that Munish Sood made after
16 this "Jeff is so happy, don't wake him up" call? In talking
17 about Mr. Richardson, and because I'm sure the government is
18 going to make much of the fact that Mr. Code was in the suite
19 at the Conrad Hilton the same day that Mr. Richardson was in
20 the suite at the Conrad Hilton -- of course, they weren't at
21 the same meeting, Mr. Code didn't see any money change hands,
22 Mr. Code didn't participate in an agreement with
23 Mr. Richardson -- but remember that there were two calls that
24 day, one between Mr. Dawkins and Mr. Richardson describing the
25 play and one between Mr. Code and Mr. Dawkins describing the

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Summation - Mr. Moore

1 play. And that informs what you hear on that June 20 -- the
2 snippets of the conversations that the government played for
3 you from that June 20 meeting.

4 Now, but I go back to the "don't wake him up" call.
5 Mr. Sood says, don't wake him up, says, I'm going to use Book
6 to get veterans. And you heard what that meant. A veteran is
7 an NBA player. And you heard evidence that there was no need
8 to pay Mr. Richardson to bring players to this group from
9 Arizona because Mr. Dawkins already had a relationship, a
10 friendship, a strong friendship, with the most important man at
11 Arizona, the head coach who was going to steer players to him
12 anyway. No reason to pay Mr. Richardson except because of his
13 contacts with people at the NBA. That, ladies and gentlemen,
14 is something that has gone pretty much completely uncommented
15 on by the government during this entire trial for a reason is a
16 reasonable doubt.

17 Now, was there an agreement? The government looks at
18 the June 20, 2017, meeting and tells you that Merl Code joined
19 an agreement to pay coaches. An agreement with who? As Judge
20 Ramos told you, you can only conspire with a true conspirator.
21 You can't conspire with Jeff D'Angelo. You can't hold Mr. Code
22 accountable for conspiring with Jeff D'Angelo. You can't hold
23 him guilty of conspiring with Marty Blazer because he's not a
24 true conspirator. He is, in essence, an undercover operative.
25 The rule of law must inform the way you look at the evidence in

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Summation - Mr. Moore

1 this case. And while the government's made a lot of those
2 comments on June 20 -- and we've talked about the comments
3 before, OK, the two meetings before, and we're going to talk
4 again about the comments after that really inform that
5 meeting -- that meeting does not demonstrate an agreement
6 between Merl Code and anybody who's an alleged conspirator to
7 do anything that violates the law, OK?

8 Now, let's spend a few minutes talking about
9 agreements, if any, existed between Merl Code and Dawkins and
10 Sood, the alleged coconspirators. On Friday, Mr. Solowiejczyk
11 told you that Dawkins brought in Code to get coaches to Las
12 Vegas. Over and over again on wiretap phone calls and from the
13 witness stand, Christian Dawkins told you that he already knows
14 all of the assistant coaches. He did not need Merl Code to
15 bring him a single assistant coach. He didn't need help in
16 making introductions because that was not Merl Code's value.
17 And you'll recall the conversation where Mr. Dawkins tells
18 Mr. D'Angelo on 6/28 that any coach that someone's going to
19 introduce you to, I can F'ing introduce you, OK?

20 Christian Dawkins is crystal clear about what role and
21 what value Mr. Code should play at Loyd Inc. And he talks
22 about the fact that if Merl can give him access to players and
23 players' parents and stuff that no one in the business can get,
24 then that's OK, because you have all the people with
25 relationships from the Nike perspective. Let's not confuse

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1 this, ladies and gentlemen. This case is not about paying
2 players and not about paying families, OK. This case is about
3 an alleged agreement to pay coaches. Let's not take our eye
4 off the ball, as the government would have you do, and have you
5 confuse paying players with paying coaches. Whatever you think
6 about paying players, that's not what this case is about. And
7 I won't repeat what Mr. Haney mentioned about Mr. Miller's
8 statement about that.

9 Mr. Dawkins says: Like, that's not why you pay Merl,
10 for coaches. You pay Merl for players, for access, for F'ing
11 information. You pay him not for F'ing someone to be a conduit
12 between himself and the coaches.

13 And he says to Mr. D'Angelo: If you're looking at
14 paying Merl from a standpoint of what coaches he can refer you
15 to -- that's -- that's not a smart investment. That's why
16 you're doing it, to build the business, not to F'ing introduce
17 the coaches.

18 And despite the fact that Mr. D'Angelo tried to push
19 and push and push and prod to get Merl Code convicted, Merl
20 Code did not bite and neither did Christian Dawkins.

21 Did Merl conspire with Munish Sood? Munish Sood
22 testified to two incompatible claims. That he and Merl Code
23 agreed on June 20 in New York that Merl would help him recruit
24 and pay college coaches and that Merl Code told him on a phone
25 call after June 20 not to pay coaches. I guess that 30 times

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1 of meetings with the government to get him ready for -- to get
2 his facts straight didn't completely help him in that regard,
3 did it, ladies and gentlemen?

4 Reasons why you shouldn't credit Mr. Sood's or
5 Blazer's claim that Mr. Code entered into an agreement to pay
6 coaches on 6/20. That testimony was bought and paid for by the
7 government. And I'm going to talk about those cooperators
8 again in a few more minutes because I'll remind you that
9 Mr. Solowiejczyk spent about two minutes in a two-hour closing
10 talking about their credibility. Think about that for a
11 minute. Mr. Sood, who told you that trusting Marty Blazer was
12 the biggest mistake of my life, OK, don't make that same
13 mistake, ladies and gentlemen, because look at where it got
14 Mr. Sood, OK? Marty Blazer, the single most untrustworthy
15 snake that I submit you or I will ever see. Now, a man who
16 tells the truth when he says he doesn't have a reason to lie.
17 Well, he had a reason last week, a very strong reason, and he's
18 been lying all of his life. Why would you think that he's now
19 changing his stripes?

20 No evidence corroborating an agreement between Merl
21 and Sood. There's -- again, we talked about the veterans.
22 Merl actually did something to help in that regard, did
23 something to help Mr. Sood recruit veterans because he made
24 phone calls, as you heard, and he tracked down information to
25 help Mr. Sood land Andre Robertson from the Oklahoma City

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Summation - Mr. Moore

1 Thunder as a client. So he had value there. It was not
2 illegal, and he did it, OK. There is no evidence that he did
3 anything to help further an agreement to pay a coach.

4 And you have to interpret the 6/20 meeting at the
5 Conrad hotel through the lens of Merl and Christian's phone
6 calls right before the meeting, and Mr. Haney played those
7 calls. You're going to have that call in your jury room. So
8 I'm simply going to remind you that Mr. Dawkins says these
9 people don't know what you're talking about. They're not Sonny
10 Vaccaro. You can just say anything to them, OK. And that is
11 what Mr. Code does. He says something to them to convince them
12 of his value, but he never, ever reaches an agreement to pay
13 coaches.

14 And on the 6/28 and -- 6/26 and 6/28 phone calls
15 between Jeff and Christian, those are incompatible with the
16 testimony that Mr. Code joined an agreement on June 20. Listen
17 closely to those calls in the jury room if you have any
18 questions, because it's clear that Jeff desperately wants Merl
19 in that capacity, but he recognizes there's been no such
20 agreement when he says: We kind of talked about it, but we
21 never really, I think, came to a good agreement. Again, I'll
22 remind you, first time you heard about that was from the
23 defense.

24 Also, think about this: Remember, one of the first
25 things that you heard in this case was a stipulation read, I

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Summation - Mr. Moore

1 think, by Mr. Mark about various items or pieces of evidence.
2 There was a stipulation read to you about wiretap calls and
3 dates of wiretap calls on people's phones. Look at that
4 stipulation, ladies and gentlemen, when you go back to your
5 jury room because it talks about these long periods of calls,
6 these long periods of wiretaps on Mr. Sood's phone, talks about
7 this long period of a consensual wiretap on Mr. Blazer's phone
8 and undercover officer's phone, talks about a period of
9 wiretaps on Mr. Dawkins' phone. Mr. Code allegedly entered
10 into this agreement at least by June 20, 2017, according to the
11 government. According to the stipulation, they didn't get a
12 wiretap on his phone until September 7, 2017. Think about that
13 for a minute, ladies and gentlemen. If Mr. Code had reached an
14 agreement on June 20, 2017 --

15 MR. BOONE: Objection.

16 THE COURT: Overruled.

17 MR. MOORE: -- to bring in these players, excuse me,
18 these coaches, and they were going to take payments from
19 someone, wouldn't you want to know what -- how Mr. Code is
20 talking to these coaches between that time and the meeting in
21 Las Vegas, OK? You didn't hear any of that evidence, did you,
22 ladies and gentlemen? Because the government didn't have a
23 wiretap on his phone at that time. That is a reasonable doubt.

24 Separate agreements. Two calls -- I'm going to move
25 on.

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Summation - Mr. Moore

1 A close read of Mr. D'Angelo's statements on June 28
2 acknowledges that he and Christian are on entirely different
3 pages when it comes to what Merl was doing, and Jeff goes so
4 far as to specifically acknowledge that he and Christian will
5 have separate agreements with Merl about Merl's role, OK.

6 Now, Mr. Solowiejczyk talked about certain pieces of
7 evidence. I'm going to simply talk about them quickly. At the
8 June 20, 2017, meeting, Mr. Code made comments like, the
9 coaches route is great, I'll help you figure out who's worth
10 paying and who's not, and money's not necessarily coaches but
11 can be used for that recruiting, and talk about getting fired.
12 OK. In isolation, in isolation, and that's what the government
13 wants you to do, that might kind of sort of look like an
14 agreement, maybe, OK. But you got to put it in context, and
15 you got to remember the phone calls that preceded it and the
16 phone calls that came after it because you have to look, ladies
17 and gentlemen, at the evidence as a whole, not in bits and
18 pieces and snippets and selections, as the government would
19 have you do.

20 Knowledge of Mr. Evans and Mr. Richardson getting
21 paid. Mr. Solowiejczyk talked about a call on September 11,
22 2017, where Merl tells Mr. Sood that Christian was paying
23 Lamont and Merl says don't pay Lamont, and the government
24 argues that's because PJ Dozier didn't pan out. And on the
25 June 20, 2017, meeting where Christian tells Merl that Book got

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1 \$5,000. Now, Judge Ramos told you and asked you to remember
2 this. Knowledge that somebody else might be doing something
3 else that's illegal doesn't make you guilty, at least not in
4 America, not in this country. Knowledge that somebody else
5 might be doing something wrong isn't enough, OK? You have to
6 act with specific intent to violate the law, and there is no
7 evidence that Mr. Code acted with specific intent to violate
8 the law. And, instead, the evidence here, when you look at it
9 as a whole, is riddled with reasonable doubt.

10 Now, there's a text message where Mr. Code sends a
11 list of coaches that he could possibly introduce, and that list
12 includes Mr. Bland and Preston Murphy. Well, the evidence was,
13 and Mr. Dawkins told you this, Tony Bland and Preston Murphy
14 were the people that he brought in, not Mr. Code. And
15 Mr. Dawkins has told you what really happened between Mr. Bland
16 and Mr. Murphy. But, of course, we don't have a surveillance
17 team to contradict Mr. Dawkins and his testimony, do we, ladies
18 and gentlemen?

19 And the government makes a whole lot about this
20 uneasiness between where Christian and Mr. D'Angelo discuss
21 Merl's uneasiness with D'Angelo about putting "25" in a text
22 message and this conversation between Mr. Dawkins and Mr. Code
23 where they're talking about you don't need to get -- you don't
24 need to get wrapped up in any BS. Let's check out Jill and her
25 family, OK? Well, it's always smart to figure out who's paying

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Summation - Mr. Moore

1 you money because there are a whole lot of unscrupulous
2 operatives out there, not just the FBI, OK.

3 It's also clear and the evidence shows that
4 Mr. Dawkins and Mr. Code were paying some players. They were,
5 OK. Just as reasonable for you to conclude that any uneasiness
6 is about getting caught by the NCAA in paying players or
7 worrying about what the true source of your money is and
8 whether or not if you're getting it from somebody who really is
9 involved in some illegal activity, who's just laundering, using
10 that mode as a front to get you into some sort of trouble that
11 you don't want to be involved in, some BS, as Mr. Code says.

12 Now, you heard some things about -- and I want to talk
13 for a few minutes here about the credibility and believability
14 of Mr. Sood and Mr. Blazer again, OK. They both have plea
15 agreements. They both have incentives to lie. The government
16 will tell you that those plea agreements are incentives for
17 them to tell you the truth. Well, if those plea agreements are
18 incentives for them to tell you the truth, then why would
19 Mr. Blazer need to meet with the government 50 times and
20 Mr. Sood need to meet with the government 30 times? And they
21 both tell you repeatedly that they're just here to tell the
22 truth, almost like every time you ask a question: I'm just
23 here to tell the truth. I'm here to tell the truth. I'm here
24 to accept responsibility.

25 My dad was not a very educated man, but he told me

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Summation - Mr. Moore

1 once a long time ago that when somebody tells you repeatedly
2 that they're just telling you the truth, OK, that's the person
3 that you have to look out for because that's the person who's
4 going to lie to you, OK.

5 And my father also had a corollary to that Emerson
6 statement about what you say speaks louder than you hear
7 because he used to tell me this: Don't just listen to what
8 people say. Listen to what they do. Mr. Sood told you that
9 he -- all he wanted to do was accept responsibility for his
10 crimes. Mr. Blazer told you that he was here to tell the truth
11 and that he wasn't really concerned about the effect that his
12 testimony here today was going to have on his plea agreement.
13 Did you believe that?

14 Mr. Blazer told you that he pled guilty back in 2017.
15 He has not been sentenced yet. His sentencing has been
16 deferred until after he delivers the performance of his life
17 here today. And he has the gall to sit on that witness stand
18 and look you in the eye and tell you he's not really thinking
19 about that because all he's here to do is tell the truth. He
20 also told you when he got questioned by the defense that his
21 agreement -- that one of the crimes that was charged here was
22 aggravated identity theft, and it carried a two-year mandatory
23 minimum sentence, which meant that all those millions that he
24 stole, OK, the law required him to get at least two years, at
25 least two years, unless there's a government motion to get him

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1 under. You didn't hear about that government motion to get him
2 under during the government's direct examination of Mr. Blazer.
3 And you don't think that Mr. Blazer isn't thinking that I'm
4 going to come in here, satisfy these gentlemen, say what I know
5 they want me to say so I could get away from that two-year
6 mandatory minimum and that judge who's been waiting now for
7 almost 18 months can sentence me as the government desires?

8 Mr. Sood said on cross-examination two completely
9 inconsistent things. He first told Mr. Haney that he had no
10 deal with the government despite his testimony on direct
11 examination, and then later in that same cross-examination, he
12 said, well, my deal is X. You remember that game show "Deal or
13 No Deal"? Munish Sood, deal or no deal Sood, which is it, OK?
14 Which is it? It's clearly a deal. It's clearly a deal. He,
15 like Mr. Blazer, is hoping to stay out of jail, and their
16 testimony was bought and paid for. I've been around
17 cooperating folks my entire life. I don't know if any of you
18 felt the need to go take a shower after spending a few hours --

19 MR. BOONE: Objection.

20 MR. MOORE: -- in the company of Mr. Blazer --

21 THE COURT: Overruled.

22 MR. MOORE: -- but I suggest that would be something
23 that one might have thought about and want to consider. And
24 that's the man that the government, after stealing \$2.3 million
25 from his clients and putting an innocent woman in harm's way to

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Summation - Mr. Moore

1 get her to tell his lies to the SEC, OK, that's the man that
2 the government wants you to hang your verdict on with his
3 interpretation of that June 20 meeting.

4 Now, I skipped over this, and I'm going to go back for
5 just a minute because I'm sure we might hear -- we might hear
6 this in the government's summation, the sort of Ricky Robertson
7 check, this \$25,000 to Loyd Inc., and the picture of a deposit
8 slip texted from Merl to Christian. You heard about that
9 during the cross-examination of Mr. Dawkins. There's
10 absolutely no evidence that that check had anything to do with
11 this case or paying any coach. Maybe players, not coaches.

12 Now I'm going to talk for a few minutes about
13 Mr. Dawkins, because Friday Mr. Solowiejczyk in his closing
14 argument did an extraordinary thing. For the first 20 minutes,
15 rather than talk about the evidence that he presented, he
16 delivered a 20-minute attack on Christian Dawkins. Well,
17 ladies and gentlemen, there was reasonable doubt in this case
18 before Christian Dawkins testified to you. There is clearly
19 reasonable doubt after, because what Mr. Dawkins explained to
20 you happened and what he did not only matches the evidence in
21 this case -- and when I say "the evidence," I mean all of the
22 evidence, including the phone calls that were played for you
23 not by the government but by the defense -- but it also makes
24 good common sense.

25 I am reminded of a statement from another famous

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Summation - Mr. Moore

1 writer, William Shakespeare, because the government's attack on
2 Christian Dawkins makes me think of the statement, methinks
3 they doth protest too much. Methinks the government doth
4 protest too much about Christian Dawkins. They didn't like
5 what he said. And what they really didn't like -- remember the
6 "Wizard of Oz," the great and powerful Oz who speaks? Well,
7 what happens at the end of the story when the dog goes back and
8 rips away the curtain? Christian Dawkins was the little dog
9 that ripped away the curtain, and he saw that behind the great
10 and powerful Oz here was this prosecution team. Of course, we
11 don't see Jeff D'Angelo here behind the curtain today, ladies
12 and gentlemen.

13 MR. BOONE: Objection.

14 THE COURT: Overruled.

15 MR. MOORE: But I ask you to think about why they
16 would go after Mr. Dawkins so hard. It's because he showed you
17 what was behind the curtain.

18 Now, with respect to conspiracy, again, the government
19 has to -- and they've charged Mr. Code with three separate
20 conspiracies here. I guess one isn't good enough. We have to
21 try to get him any way we can.

22 MR. BOONE: Objection.

23 THE COURT: Sustained.

24 MR. MOORE: They have to prove in each of those cases
25 that Mr. Code knowingly and willfully joined a conspiracy with

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Summation - Mr. Moore

1 the specific intent to make the purpose of that conspiracy
2 succeed, to pay a coach, to do something that is in violation
3 of his or her job or his or her employment agreement with the
4 college, OK.

5 With respect to the Travel Act, they have to prove
6 that Mr. Code joined the conspiracy trying to make someone
7 travel so that they would commit a violation of one of the
8 state commercial bribery statutes. They have no evidence that
9 Mr. Code knowingly and willfully joined any conspiracy with the
10 intent to violate any of those laws.

11 And with respect to the 666 count and the payments of
12 bribes and gratuities to an agent of a federally funded
13 organization, which then doesn't go on to specify which
14 federally funded organization, which coach, OK, sort of another
15 sort of catchall, throw it all on the wall and hope it sticks,
16 OK, there's no evidence that Mr. Code helped pay or aided and
17 abetted the payment of money to any of the folks from any of
18 the schools.

19 I ask you to think about this. We'll go back to
20 Mr. Richardson and the veteran comment for a minute. You
21 didn't hear anybody from the University of Arizona, did we? We
22 didn't see an employment agreement for Mr. Richardson, did we?
23 We didn't hear any testimony that Mr. Richardson couldn't be
24 paid to bring in veterans, did we? Think about that, please,
25 ladies and gentlemen.

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1 I go back to the fact that the government has the
2 audacity to come in here and argue that you should convict Merl
3 Code because of his conscious avoidance of the facts going on
4 around him. That's a pretty weak -- it's a theory that's
5 permissible by the law. It's a pretty weak theory
6 particularly, but I guess here, if that's all you got, that's
7 what the government's going to use. Their case, however,
8 doesn't prove conscious avoidance, OK. The weakness in their
9 case shows all about their consciousness of reasonable doubt
10 and their efforts to try to cover it up and to hide from you,
11 ladies and gentlemen, in your consideration the evidence that
12 doesn't support their theory, evidence that you heard from the
13 defendants.

14 I'm close to wrapping up, OK, and I'm sure you're all
15 happy about that. But I only have one chance to talk to you
16 for my client, and it's a very, very important day for him,
17 very important. So I'd ask you to consider some -- and this is
18 not an all-exclusive list -- of the reasonable doubts that you
19 should be left with in considering the evidence against Merl
20 Code.

21 The evidence in this case dates back to 2015, but
22 Mr. Code doesn't show up until June of 2017. There's no
23 evidence connecting him to Lamont Evans. Knowledge doesn't
24 equal participation. There's no evidence connecting him to
25 Book Richardson and to Book Richardson's alleged -- and I put

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1 "alleged" in quotes because they haven't proven it, OK --
2 alleged acceptance of any money for a specific purpose.

3 Mr. D'Angelo doesn't think that Mr. Code had an agreement on
4 June 28, 2017, when he's arguing with --

5 MR. BOONE: Objection.

6 MR. MOORE: -- Christian Dawkins about it.

7 THE COURT: Overruled.

8 MR. MOORE: Mr. D'Angelo tells Mr. Dawkins that he has
9 an agreement with Merl to get players, NBA and grassroots, but
10 he wants an agreement with Merl for introduction to coaches.

11 Another reasonable doubt, the pre-meeting calls
12 between Mr. Dawkins and Mr. Richardson and Mr. Code. The fact
13 that Christian, Sood, Blazer, D'Angelo, and Bailey are
14 constantly traveling, meeting, and paying and Merl's never
15 anywhere to be seen. Days after that New York meeting,
16 Mr. Code doesn't even drive a hundred miles to Columbia for the
17 PJ Dozier party. There's no evidence that Merl paid anybody,
18 no evidence that Merl was in the room when anybody got paid.
19 Blazer testified that Christian organized the meetings with
20 Bland and Preston, not Merl. Please remember that.

21 Mr. Sood testified that Christian organized the
22 meetings with Bland and Preston. Mr. Dawkins told you he
23 organized the meetings with Bland and Preston. There's no
24 evidence that Merl even knows Corey Barker, OK. And the
25 coaches that Merl Code sent did not take any money, despite the

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1 fact that Mr. Solowiejczyk wants to stand up in a courtroom and
2 call them corrupt.

3 And that Merl had an agreement, another reasonable
4 doubt, Merl had an agreement with Mr. Sood to recruit NBA
5 veterans. No recording of Merl talking to a single college
6 coach, not one, for a bribe payment. No wiretap on Merl Code's
7 phone until September and no calls of him talking to any of the
8 coaches he asked to meet with Mr. D'Angelo in Las Vegas.

9 Now I'm going to briefly go over, with Mr. Chaney's
10 help, a couple of snippets of phone calls. When I say
11 "snippets," I don't have two weeks to talk to you. You can
12 listen to these calls and you can listen to every bit of every
13 call that's been introduced into evidence in this case, OK,
14 when you go back for deliberations in your jury room. I ask
15 you, if you have any question here about Mr. Code, then you
16 should listen to every single call you want to listen to.

17 All right. Let's play that for a moment, please.

18 (Audio played)

19 MR. MOORE: Could you pause it, Mr. Chaney.

20 OK. "I'm just trying to get you money in your
21 pocket," a call the government didn't bother to bring you, OK.

22 Let's look next at the 6/26 call, Mr. Chaney.

23 (Audio played)

24 MR. MOORE: Let's play the June 28 call. I'm sorry.

25 (Audio played)

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Summation - Mr. Moore

1 MR. MOORE: What Mr. Dawkins is telling Mr. D'Angelo,
2 who doesn't want to listen because he's got another purpose in
3 mind, which is to set these guys up, OK, what Mr. Dawkins is
4 telling Mr. D'Angelo is you don't need Book. Anybody that Book
5 can introduce you to, so can Merl. And when you pay Merl, you
6 ain't paying the college coach, and that ain't a violation of
7 the law. But because of that, that's not what Mr. D'Angelo
8 wants to hear, and he says, I don't think we came to a good
9 agreement. I still want to pay these coaches. Come on, we've
10 got to get them to do it.

11 Next.

12 (Audio played)

13 MR. MOORE: Think about the message here and think
14 about these calls that were withheld from you during the
15 government's presentation, and also think about this, remember
16 this: Munish Sood admitted, not on direct examination, of
17 course, but on cross-examination that Merl Code told him not to
18 pay coaches, OK. You didn't hear any redirect examination from
19 the government of Mr. Sood when Mr. Sood said that. Why?
20 Because there's not a whole lot you can do about that, is
21 there, ladies and gentlemen? And there's no redirect
22 examination because perhaps Mr. Solowiejczyk was a little
23 concerned that if he attempted to redirect, might get worse for
24 him, and Lord knows we can't have that because we only want to
25 put forward our theory of the case.

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1 (Audio played)

2 MR. MOORE: Ladies and gentlemen -- please continue.

3 (Audio played)

4 MR. MOORE: "What he does for the coach thing ain't
5 got nothing to do with you." Doesn't get much more direct,
6 does it, ladies and gentlemen?

7 Before I move on to my really concluding remarks, I
8 need to mention something that Mr. Solowiejczyk said in his
9 closing because he did a whole lot of talking about they,
10 Mr. Dawkins and Mr. Code, when he was actually referring to
11 something that Mr. Dawkins may have said on the one side or
12 Mr. Code may have said on the other. And he said they didn't
13 care about paying players or they didn't care about --
14 Mr. Solowiejczyk said these defendants did not care about the
15 players, OK. Well, ladies and gentlemen, the evidence in this
16 case shows that if there's anybody who cared about the players,
17 it's Mr. Dawkins and Mr. Code, not the government, not the
18 alleged victim schools, and certainly not the NCAA.

19 Now, as I told you at the beginning, this case is
20 about reasonable doubt. The government bears the burden of
21 proving its case beyond a reasonable doubt. There's a sign --
22 it's not really a sign so much as an inscription in the
23 Attorney General's rotunda in Washington, D.C., which says that
24 the United States wins its case when justice is done to one of
25 its citizens in its court. The government, the government, we

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1 the people, because we are the government, OK, we don't win
2 when the government gets a conviction. We win when justice is
3 done. And you, ladies and gentlemen, each of you took an oath
4 to judge this case fairly and impartially, without prejudice,
5 without sympathy, bringing your own good common sense and your
6 own open mind, and agreeing that you would abide by His Honor's
7 instructions. And His Honor's instructions were that you
8 cannot convict a defendant unless the government removes each
9 and every reasonable doubt from each and every one of your
10 minds. High burden, high responsibility. Not one that was met
11 in this case because there is no evidence that Mr. Code
12 intended to commit any crime that's charged here or that he
13 did, despite the fact that Jeff D'Angelo and Jill Bailey and
14 their good buddy Marty Blazer were trying so hard to force them
15 to do it. I ask you to remember, again, listen not only to
16 what people say but listen to what they do, OK?

17 In a few minutes, the government is going to come back
18 and they're going to have a chance to talk to you at the
19 conclusion of this case because they have the burden of proof,
20 and that means they start first, and they get to go last. But
21 remember that they have a burden of proof. And I challenge the
22 government in its final summation to stand here and address
23 each and every one of the reasonable doubts that exist in this
24 case and explain to you why they didn't call Jeff D'Angelo
25 because --

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Summation - Mr. Moore

1 MR. BOONE: Objection.

2 MR. MOORE: -- what Judge Ramos told you --

3 THE COURT: Sustained.

4 MR. MOORE: Judge Ramos told you these witnesses are
5 equally available to either party. The defendants have no
6 burden, OK. They do not have to prove anything.

7 Now, imagine, if you will, that someone gave you a
8 free trip to what's supposed to be your dream destination. Get
9 hotels, meals, airfare, local transportation -- everything
10 comped. Sounds like an awesome thing, doesn't it? It really
11 sounds like an awesome thing. But you've read on the Internet
12 that, you know, there's some people out there who scam folks
13 and that some of these resorts that look all pretty in the
14 picture aren't exactly what they're cracked up to be, and that
15 causes you to go, hmm, this is too good to be true, but you
16 still thinking, you know, it's free, OK. Why not? Then you
17 get to the airport to board the charter jet and you look
18 outside the window and you see smoke coming out of the engine
19 of the plane, and the pilot and the stewardess tells you, don't
20 worry about that. I mean, you see that smoke? We're trying
21 to -- we're trying to fix it. We're trying to fix it. You
22 know, don't worry about that. Just get on the plane, OK?

23 Ladies and gentlemen, they're not just -- if this is a
24 plane, they're aren't just a few whiffs of smoke here; there's
25 smoke coming from all parts of the plane. And you know that

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1 the smart thing to do is to hesitate to act in an important
2 matter and not get on that plane, because if you get on that
3 plane and something happens, you don't get a do-over, OK. If
4 you choose to let the government convince you to convict Merl
5 Code based on the case it put on and the case it didn't and all
6 of these reasonable doubts, you won't be able to take that
7 back. And I ask you, when you hesitate to think, there's not
8 just one reasonable doubt here, this case is riddled with
9 reasonable doubts.

10 Ladies and gentlemen, thank you for your time and
11 attention.

12 Prosecution team, your prospective passengers await.

13 THE COURT: Thank you, Mr. Moore.

14 Ladies and gentlemen, we're going to take another
15 ten-minute break. Please be prepared to come out at 25 after
16 the hour.

17 (Jury excused)

18 THE COURT: Everyone be seated.

19 So I received proposed instructions from the
20 government. I don't know if the defense has had an opportunity
21 to review them and digest them.

22 MR. MOORE: I could tell you that I haven't, your
23 Honor, and so what I would ask is if you give us an opportunity
24 to do that while Mr. Boone is making his remarks and --

25 THE COURT: Very well.

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Rebuttal - Mr. Boone

1 MR. MOORE: I would appreciate that, thank you,
2 because it may be that if Mr. Boone has objectionable things,
3 he's going to get an objection, and we'll have to deal with the
4 same issue.

5 THE COURT: Very well. About how long, Mr. Boone? Do
6 you know?

7 MR. BOONE: I'm going to try for 45 minutes, your
8 Honor.

9 THE COURT: OK.

10 (Recess)

11 (Jury present)

12 THE COURT: Everyone, please be seated.

13 Ladies and gentlemen, at this time the government will
14 have an opportunity to present its rebuttal summation.

15 Mr. Boone.

16 MR. BOONE: Thank you, your Honor.

17 Good afternoon. I understand that I'm sort of the
18 last argument before you get to deliberate, and you've already
19 heard a decent amount of argument this morning, so I'm going to
20 try to be as brief as I can. But as Mr. Moore said earlier,
21 it's the government's burden to prove its case. We embrace
22 that burden, so I must take some time to respond to some of the
23 arguments you've heard. I'm not going to respond to all of
24 them because we don't have time for that. I'm going to respond
25 to a few that I want you to think about a little more

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Rebuttal - Mr. Boone

1 carefully.

2 Now, where I want to begin is basically where
3 Mr. Moore, Merl Code's attorney, left off. He said something
4 that I really liked, which was actions speak louder than words.
5 That's a phrase that we're all familiar with. That's a phrase
6 that exists in essentially every culture, and we know what that
7 means and why that's such a popular phrase, because it's true.
8 Your actions do speak louder than your words. People say a lot
9 of things, but it's what they do that makes them who they are.
10 People are a culmination of their actions.

11 Now, throughout this trial, you've had an opportunity
12 to listen to a lot of recordings. You've had a lot of
13 opportunity to listen to or see, rather, some text messages and
14 some email exchanges, and you've had an opportunity to look at
15 some videos. And you have seen in those videos what the
16 government has argued throughout this case. It is painfully
17 clear that the defendants paid bribes. It is literally on
18 tape. You literally watched thousands of dollars exchange
19 hands between the defendant Christian Dawkins; Jeff, the
20 undercover; and various basketball coaches.

21 Now, like I said at the outset, it's the government's
22 burden to prove its case, but it is interesting and you are
23 allowed to question and analyze arguments that are made by
24 defense counsel and analyze arguments that are made both in
25 their closing statements and in the questions they asked on

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Rebuttal - Mr. Boone

1 cross-examination. There is very little time spent on that
2 fact in either of defense closings, and you know why that is.
3 That's a completely damning piece of evidence.

4 Now, there are conversations and there was a lot of
5 time spent on, I think it was, Government Exhibit 109. This is
6 a conversation that Christian Dawkins had with Jeff, the
7 undercover. And the defense argued, essentially, that this
8 call shows that there wasn't really an agreement to pay bribes
9 because Christian Dawkins really didn't want to pay bribes.
10 Keep in mind the date of that call. That call is almost a
11 month before Christian Dawkins actually pays a bribe multiple
12 times on camera. His actions spoke louder than his previous
13 words.

14 Now I want to give you an example of how this plays
15 out in maybe real life. Now my colleague, Eli Mark, in his
16 opening statement, he said that your common sense is the most
17 important asset you can bring to this process, and I want to
18 reiterate that. Your common sense is all you need to do your
19 job as jurors. You don't need to know anything about
20 basketball or grassroots or sports agencies or the best way to
21 recruit talent. All you need is your common sense. All you
22 need is what you already have, which is your ability to
23 understand the truth and your ability to determine when
24 something you hear sounds like the truth and when something you
25 hear sounds like something other than the truth.

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Rebuttal - Mr. Boone

1 MR. BOONE: (Continuing) And one characteristic
2 you've probably learned throughout your life is at the end of
3 the day the truth is ultimately very simple. What's
4 complicated tend to be lies. Lies cause you to have to
5 remember a lot of facts that don't seem to fit with each other.
6 Lies cause you to have to remember things that don't seem to
7 fit with your natural instincts of how the world makes sense.

8 So I want you to keep that in mind as we go over some
9 of defense counsel's arguments. What makes sense? Based on
10 how you've lived your life, what you've learned through those
11 personal lessons, what makes sense? And is what I'm hearing
12 making sense or does it sound like something other than the
13 truth?

14 I want you to imagine a scenario in which you're in a
15 relationship. You have a girlfriend. You have a boyfriend.
16 Maybe you're even engaged. And in the past few weeks you
17 started to have that strange feeling that your boyfriend is
18 cheating on you.

19 So you decide you're going to do a little
20 investigative work. You're going to start maybe listening in
21 on some of the phonecalls he's having. You're going to start
22 reviewing some of the text messages. Maybe even set up a
23 little video camera in his apartment so you can see who is
24 going in and out of that apartment.

25 After a few weeks you review all the evidence. You

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Rebuttal - Mr. Boone

1 listen to the phonecalls. You look at the text messages. You
2 look at the video camera. And it becomes crystal clear to you
3 that, in fact, your boyfriend, Christopher, is cheating on you.

4 And so you decide you're going to confront him.
5 You're going to go to his apartment. You're going to let him
6 know that he's caught and you're going to let him know that
7 it's over. And so you do that.

8 You go to his apartment. And you say: Christopher, I
9 know you're cheating. I've listened to your phonecalls where
10 you're constantly talking about cheating. I've reviewed your
11 text messages where you're setting up times to cheat. I've
12 looked at video footage that shows people coming in and out of
13 your apartment like they're going for a job interview. You're
14 caught and it's over.

15 And what does Christopher say in response? He says:
16 Listen, I know you've listened to hours of phone conversations
17 in which I'm talking about cheating, and I know you've actually
18 looked at text messages where I am literally setting up
19 appointments to cheat, and I know you've actually seen a video
20 that makes it crystal clear that I'm cheating. But what you
21 don't know, what you may not have heard is that before I
22 cheated I had some real concerns. In fact, I thought it was a
23 bad idea. And I called up my buddy Mervin and we discussed it
24 and we talked about you know what I don't think this is the
25 best model, this isn't the best way to end one relationship and

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Rebuttal - Mr. Boone

1 start another. We're really concerned about this. So just
2 keep that in mind before you make any rash decisions.

3 What would your response be to that statement? What
4 would any reasonable person's response be to that statement?

5 So what? What difference does it make that you have
6 some concerns about cheating? What difference does it make if
7 you and Melvin talked about maybe this isn't a good idea?

8 At the end of the day, you cheated. That's what
9 matters. Your actions are what matters. It doesn't matter
10 what conversation we're having beforehand. What matters is
11 what did you do on the day in question. And you know from
12 looking at the videotape that bribes were paid.

13 Now, I want to move on to something that I believe
14 Merl Code's attorney argued and that was, well, essentially
15 even though certain coaches received money in Vegas -- and I
16 know Dawkins has an argument relating to that and we'll get to
17 that later -- but even though coaches received some money in
18 Vegas, the coaches that Merl Code is alleged to have gone to
19 Vegas didn't receive any money and that somehow means that he
20 didn't agree to pay college coaches because if you look at what
21 happened ultimately at the end of the day the coaches that he
22 sent to Vegas didn't actually accept any money and that further
23 shows that he did not have an agreement to pay college coaches.

24 First of all, by now we know who Merl Code is. Merl
25 Code is an extremely connected person in the basketball space.

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Rebuttal - Mr. Boone

1 From the June 20 meeting he basically spent hours going over
2 his resume. He talked about the fact he worked at Nike for 14
3 years. He had connections both at the college level, the high
4 school level, the NBA level. He talked about how at the time
5 of the recording he was at Adidas and had been there for two
6 years. Merl Code is someone who it is fair to say is very
7 experienced in the basketball world.

8 And Merl Code, based from that experience, told you
9 what the best way is to pay bribes. Merl Code did not think it
10 was a great idea to simply have a bunch of coaches meet some
11 random guy they have never met in their entire life who
12 Christian Dawkins barely knows at this point has maybe met
13 three times and have them take envelopes of cash. Of course,
14 he didn't think that was a great way to have a successful
15 bribery scheme.

16 He said what you need to do in Vegas is you need to
17 make it clear to the coaches that if you need something we're
18 here to help. Just let them know that. Just make it clear.
19 We can be a resource. If you need something, we're here to
20 help. You just don't go out giving them thousands of dollars
21 in cash in the very first meeting in the hotel suite in front
22 of a guy they've never met before.

23 And you know why Code said that. He explained this in
24 the June 20 meeting in the New York. He said coaches are very
25 nervous. Very reluctant. Very hesitant to talk to anyone who

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Rebuttal - Mr. Boone

1 is not in the basketball space.

2 He's obviously talking about people who are going to
3 pay them bribes. He's not talking about them being reluctant
4 to talk to mailmen or the person who delivers their milk.
5 There is no reason to be nervous about that.

6 They're nervous about talking about people -- talking
7 to people, rather, who are about to pay them bribes. Because
8 he knows that's what they're talking about in the June 20
9 meeting.

10 And he explains to Christian Dawkins, and you can
11 check Government Exhibit 116T, he explains to Christian Dawkins
12 that at the meetings in Vegas he doesn't want Jeff just handing
13 out money to his guys. He just wants it to be made clear that
14 they, if they need something, they're there to help.

15 He is agreeing to pay bribes. He is agreeing to pay
16 bribes, frankly in a much smarter way than Jeff D'Angelo wanted
17 to pay bribes. He is agreeing to pay bribes in the future.
18 And he wants to make that clear to the coaches.

19 And you saw the video. That's exactly what happened.
20 Think about the guys who are Merl Code's guys. You have Steve
21 Smith. He's the Clemson coach who went on and on about Zion
22 Williamson and how he's having a meeting with the step-dad next
23 day and how he's going to get back to them on what the needs
24 are.

25 Steve Smith knew what was going on. He knew that the

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Rebuttal - Mr. Boone

1 point of this meeting was to meet with these guys who had
2 resources, who had money, who had availability to help get --
3 help him with a recruit.

4 I want to be very clear about this point. Giving a
5 coach money for him in turn to use to recruit is a bribe.
6 Period. There is no question about that. You don't get off
7 the hook because you want to use the money to recruit players.
8 That's not some -- that's not a safety for you.

9 Now Steve Smith said that. And he wasn't the only
10 one.

11 You had another coach, Yasir Rosemond, from Alabama
12 who was practically falling over himself with the opportunity
13 to meet people who had resources. And he talked about how he's
14 at Alabama and how recruiting is so difficult, and how he
15 hasn't actually used resources in Alabama, and he's excited for
16 this opportunity. He says: I'll do whatever you need me to
17 do. I'll put you in front of a player. He clearly had been
18 told what this meeting was about. And he even talked about how
19 he has no dog in the fight. He wants everyone to succeed. He
20 just wants to be a head coach one day.

21 Who else did they meet with who was Code's guys? The
22 coach from UConn. Raphael Chillious. You can review all these
23 recordings. Raphael Chillious, in their conversations, Dawkins
24 says to him: We're here to give you the ammunition you need.
25 The ammunition you need. Money.

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Rebuttal - Mr. Boone

1 And what does Chillious say? He doesn't say,
2 Ammunition you need, what are you talking about? I don't
3 participate in a bribery scheme. That's illegal. No. He
4 says, Yeah, and we need it.

5 They coaches, as Marty Blazer told you, were there
6 because they wanted the help. And Merl Code had instructed
7 them to go about it in a smart way. To take their time. To
8 get to know the coaches. To build a rapport.

9 And you know why it is. Common sense tells you. If
10 you have a coach -- first of all, you heard from compliance
11 officers from the University of South Carolina and University
12 of Southern California. They made it very clear. Taking a
13 bribe can get you fired as a head coach. It's one of the
14 biggest deals that could happen. If you have a head coach go
15 to a hotel suite in Vegas, which already seems suspect, to meet
16 with a guy they've never met before, who is going to hand them
17 on the spot thousands of dollars in cash, obviously some
18 coaches are going to get spooked. They're going to realize
19 this is strange. They're not going to take the money. Their
20 plan is not going to work. Or if they take the money, they may
21 be too afraid to actually do what they're supposed to do in
22 terms of steering you players.

23 Code wanted the scheme to work in a smart way. And
24 the smart way is maybe you actually say hello to the guy first
25 and meet him before you just take cash to him and you build --

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Rebuttal - Mr. Boone

1 to build a rapport. That's all Code was arguing.

2 He wasn't arguing he didn't want to pay coaches ever.
3 Check all the transcripts. Check all the recordings. You will
4 not find a single sentence in which Code says don't pay my guys
5 in Vegas and don't pay them ever, I don't want to do this. He
6 never says that because that's not true.

7 He wanted to pay them. He just wanted to pay them an
8 approach that was different than the UC, than Jeff D'Angelo.
9 Jeff D'Angelo does not know how to pay bribes in the basketball
10 space. Obviously. He's an undercover law enforcement officer.
11 He's not in the basketball world. He didn't work 14 years at
12 Nike. He didn't work two years at Adidas. He doesn't have
13 experience in this arena. He's offering a very brazen way,
14 frankly, to pay a bribe. Code is offering a much smarter,
15 likely more effective way to pay a bribe, which is you take
16 your time, but you make it clear, you make it known that you
17 are ready for business, you have the resources when the coaches
18 need it.

19 Now, I want to move on to some arguments made by
20 Christian Dawkins's attorney and one of the arguments is that
21 Jeff D'Angelo gave Christian Dawkins essentially an ultimatum.
22 And I believe defense counsel referred to Defendant's Exhibit 5
23 which I think is Government Exhibit 108T as well. And he
24 pointed to this call between Jeff D'Angelo and Dawkins and he
25 said: In this call it's clear that Jeff D'Angelo was saying

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Rebuttal - Mr. Boone

1 that if you don't pay bribes to coaches I'm not giving you
2 money.

3 Interesting enough, given how important this call is,
4 defense counsel didn't actually play the call. But, again,
5 it's the government's burden and we accept that burden. What I
6 encourage you to do is to play the call for yourself.

7 In fact, for all of these calls, I would encourage
8 you -- I agree with Mr. Haney on this point -- play the calls
9 because when you play the calls you can pick up things that you
10 can't pick up from just reading a piece of paper. You can pick
11 up tone and you can pick up meaning of what is happening. And
12 if you play that call it will be very clear to you Jeff
13 D'Angelo never gave any ultimatum. There is no ultimatum
14 given. If you review every call that has been put forward in
15 this case by the defense and by the government, you will not
16 find a single call where Jeff D'Angelo said: If you don't pay
17 coaches I'm not funding you.

18 First of all, by the time get the call he already
19 funded him, he gave him \$25,000 on June 6 on the boat. He
20 already had the money. Sood testified to that. You literally
21 saw him pull out \$25,000 in cash and put it on the table. When
22 he put it on the table, he didn't say: Before I put this on
23 the table you got to make sure you pay college coaches. He
24 never said that.

25 And interesting enough, defense counsel pointed to

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Rebuttal - Mr. Boone

1 zero other recordings that they even claim Jeff D'Angelo gave
2 an ultimatum.

3 And when Dawkins was asked about it on the stand, he
4 said: Well it was my interpretation that that's what he said.
5 My interpretation was that was an ultimatum. Obviously, that's
6 an extremely convenient interpretation when you're on trial for
7 paying coaches in a bribery case.

8 Listen to that call yourself. Listen to all the
9 calls. You will see there is no ultimate given at any point in
10 time.

11 Now, defense counsel also used that call to suggest --
12 and other calls like it to suggest that Dawkins really didn't
13 want to pay college coaches just like Merl Code. He wasn't a
14 fan of paying college coaches. He testified -- he is a fan of
15 paying moms and dads and uncles and aunts and high school
16 coaches, except when the high school coach becomes a college
17 coach and he stops paying them, but college coaches, he doesn't
18 pay them.

19 First of all, that's blatantly not true. You know
20 what happened to Lamont Evans. We're going to try to spend a
21 little bit of time on it. It was a three-hour journey to South
22 Carolina where Christian Dawkins explained in very interesting,
23 frankly, detail exactly why you pay college coaches. That trip
24 wasn't addressed by defense counsel.

25 Again, it's our burden. But when they make arguments

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Rebuttal - Mr. Boone

1 you are entitled to scrutinize their arguments. That is your
2 job as jurors.

3 And it was very clear through that three-hour journey
4 that Christian Dawkins paid college coaches. There was an
5 argument that, well, for Lamont Evans he really only made one
6 check for \$2500.

7 That's not what Christian Dawkins said. In that
8 recording he literally said I paid him \$2500 monthly. And even
9 talked in detail how he did it. He said well we do the drop in
10 ATL sometimes, in Atlanta when Lamont is down there for
11 recruiting I go to the ATM and I just give him cash.

12 That wasn't a one-time thing. He obviously confessed
13 to Marty Blazer and Munish Sood that he paid Dawkins on a
14 monthly basis. And the entire point of their trip to going to
15 South Carolina was so that Marty Blazer and Munish Sood could
16 take over the payments for him.

17 That was the whole purpose of the trip. He never met
18 Sood before in his entire life. He met Marty Blazer maybe once
19 or twice. He traveled with these two men he barely knows to
20 South Carolina which is not -- which is not close to Atlanta.
21 And the entire time they talk about paying college coaches and
22 he's schooling them on why you do it. And why you don't pay
23 the head coaches. And what the advantage is. And they're
24 going to be with the kid everyday and you've got them by the
25 balls and they can lose their job. That's Christian Dawkins

J569DAW4

Rebuttal - Mr. Boone

1 who now claims he doesn't pay college coaches.

2 But, again, I want to get back to his argument that
3 there are calls where he suggested some doubt about paying
4 coaches. Talked to Jeff D'Angelo and he tried to essentially
5 sort of get him off of the idea of paying college coaches. The
6 first meeting of Loyd Management where they sign the
7 shareholder agreement you know was the boat meeting. That was
8 June 6. And in that meeting they talk about paying college
9 coaches. They talked about the coaches' model, which you've
10 heard about.

11 And what does Dawkins say in that meeting? He doesn't
12 say don't pay college coaches. He says: Here's a smart way to
13 go about it. Why don't we pay them when they need it. Why
14 don't we pay them when they need it as opposed to giving every
15 coach under the sun money.

16 That's what he wanted to do. He wanted to pay college
17 coaches. He just wanted to be smart about it. He doesn't want
18 to throw all the money around.

19 Same thing that Code said. They both have the same
20 idea. Be smart about it. Pay the coaches when they need it.

21 Now, Dawkins did say for the elite, elite coaches you
22 can pay them. Book Richardson, who got paid, obviously. We've
23 talked about that. The fifteen grand he came to pick up in
24 New York. The other five grand he got in New York at a
25 previous trip. He talked about paying the elite, elite

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Rebuttal - Mr. Boone

1 coaches, the coaches at the top programs who will produce NBA
2 draft picks every year. But for everyone else just be smart.
3 Don't just hand out the money.

4 Think. Why would Christian Dawkins say this? Why
5 would Christian Dawkins say this? Is it possible he said this
6 because he's getting paid by Jeff D'Angelo and he wouldn't like
7 all of his money to go to college coaches. He is living off of
8 this money. This is his job, his source of income is Jeff
9 D'Angelo. Do you think maybe he had a reason to try to keep
10 the costs somewhat reasonable so that he could get paid at the
11 end of the day and not have it just go all to college coaches?
12 Think about that. Again, use your common sense.

13 Now, I want to go back, just because this is an
14 important point and this is a point defense counsel hit on. I
15 want to focus just briefly before we move on to the idea that
16 Christian Dawkins and Merl Code agreed to pay college coaches
17 that they had, in fact, just a smarter way to go about it than
18 the undercover did.

19 I want you to imagine the scenario in which you and
20 your friends decide you're going to form a bank robbing crew.
21 You're going to rob banks.

22 MR. HANEY: Objection, your Honor.

23 THE COURT: Overruled.

24 MR. BOONE: You and your friends decide you're going
25 to form a bank robbing crew. You're going to go around and

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Rebuttal - Mr. Boone

1 you're going to rob banks. And your friend, Jeff Bellagio
2 says: Listen, this is what we're going to do. First, we're
3 going to get matching jumpsuits, maybe some like navy velour
4 jumpsuits where everyone knows that we're a crew. Then we're
5 going to get individual name tags. Mine will say Jay Smooth,
6 yours will say Nelly Mel, so people will know, even though
7 we're a crew, we're still individuals with a personality.

8 Then we're going to go to the bank. We're going to go
9 in the middle of the day, a little bit of a crowd, a little of
10 a scene. We're going to pull out our guns and before we rob
11 the bank we're going to go around the circle and we're going to
12 each say a little bit about ourselves and maybe what we want to
13 do with the money when we rob it.

14 Then we're going to rob the bank and we're going to
15 leave a little card and the card is going to have a little
16 symbol on it, and that's going to be the symbol of our crew so
17 that everyone knows it's our crew who did that robbery.

18 Now after your friend Jeff Bellagio tells this
19 suggestion, your friend Melvin speaks up. And he says: Jeff,
20 that is the most idiotic idea I have ever heard. That makes
21 absolutely no sense. We are not doing that. I'm telling you
22 that right now. I'm telling everyone in the crew we are not
23 doing what Jeff just said. Instead, we're going to rob the
24 bank at night when no one is there. We're going to wear masks.
25 We're going to quietly go in and take the money and we most

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Rebuttal - Mr. Boone

1 definitely are not leaving a business card.

2 If your friend Melvin said that, would there be any
3 doubt in your mind that Melvin agreed to rob a bank? No.
4 Obviously, he agreed to rob a bank. He just wanted to go about
5 it in a smarter way. He wanted to go about it in a more
6 successful way. But at no point in time did he give any
7 suggestion that he did not agree to rob a bank.

8 That's no different than what's happening here.
9 Dawkins and Code wanted to go about this in a smarter way than
10 what Jeff D'Ang -- now I'm confusing the Jeffs, but Jeff, the
11 undercover, suggested who obviously doesn't know how this works
12 in the basketball space; he's an undercover FBI agent.

13 Now, I want to now jump forward a bit and talk about
14 Las Vegas. Now, as I said in the beginning, it could not be
15 more clear that bribes were paid in Las Vegas. In some sense,
16 defense counsel concedes that at least it looks like bribes
17 were paid in Las Vegas. Christian Dawkins, as you know, at
18 this point, offered another version of events. And his version
19 of events is that although it looks like there's thousands of
20 dollars in cash being handed to college coaches, the reality is
21 it was all just pretend. It was a prank. Because I had talked
22 to them, the college coaches beforehand, and I actually told
23 them: Hey, I got this guy Jeff; he's funding this company I'm
24 starting; for some reason he wants to see me pay a college
25 coach. So could you just come and pretend that you're taking a

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Rebuttal - Mr. Boone

1 bribe and then you can go about your business, I'll take the
2 money back and we'll all be good. That's essentially Dawkins'
3 version of events. That's what he told you on the witness
4 stand.

5 Now, ladies and gentlemen, we all have friends. Some
6 of us are likely fortunate enough to have friends who we
7 consider family, people we would do anything for. You may be
8 that friend to other people.

9 Ask yourself: Would you risk your entire career for
10 free, before Dawkins has even given me money, for trouble?
11 Would you risk your entire career --

12 MR. HANEY: Object, your Honor.

13 THE COURT: Overruled.

14 MR. BOONE: -- for free to help a friend pull off a
15 prank? Obviously, you wouldn't do that. No one would do that.
16 That makes no sense.

17 These coaches worked hard to get to where they are.
18 They are coaches at major Division I universities. They know
19 you can get in serious trouble for taking a bribe, for giving
20 the appearance that you were taking a bribe.

21 You heard testimony from the compliance officers at
22 universities who testified to that. This is a huge, huge deal.
23 This is a career-ender. Does it sound reasonable to you that
24 someone in that position would risk their entire career for a
25 five-minute prank for Christian Dawkins? No. Obviously, no

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Rebuttal - Mr. Boone

1 one would do that. It makes absolutely no sense. That's
2 ridiculous.

3 And another reason you know it's ridiculous is because
4 after this bribe payment was paid the coaches worked very hard
5 to steer players to Christian Dawkins.

6 You heard about Tony Bland. Tony Bland set up a
7 meeting in L.A. with a handler for an incoming player. Jill
8 Bailey, Munish Sood, Christian Dawkins were there for that.

9 Book Richardson set up a meeting with a handler in
10 Arizona. Munish Sood, Jill Bailey, Dawkins were there for
11 that.

12 Corey Barker was on a phonecall after this meeting,
13 after the bribe payments were paid talking about how he had a
14 player who was going to be a layup for Dawkins, how he was
15 going to be a for sure second rounder.

16 Now, Dawkins argues well they're my friends they did
17 this to me -- they did it for me because they're my friends.

18 First, of all, he testified none of these people have
19 ever given him a player before. The entire time he worked at
20 ASM he did not have one single player from USC as a result of
21 his connection to Tony Bland. He did not have one player at
22 Arizona as a result of his connection to Book Richardson. He
23 did not have one player at TCU as a result of his connection to
24 Corey Barker. That never happened. It was only after he paid
25 them bribes, now all of a sudden everyone is setting up

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Rebuttal - Mr. Boone

1 meetings and they're flying around the country and trying to
2 make sure he gets to meet all these people.

3 Second, think about Book Richardson. Book Richardson
4 set up a meeting for Dawkins, Jill Bailey, Munish Sood, in
5 Arizona. And the meeting was with a handler for a player Rawle
6 Alkins. And after that meeting Jill Bailey and Book Richardson
7 talk. And she essentially thanks him for setting up that
8 meeting. And what does he say in response? He says I just did
9 my job. Not I did a favor. I just did my job.

10 Think about your own experiences. If you have a
11 friend who says: Hey, I'm coming to New York. I just want to
12 stay with you a couple days. Is that all right? You say:
13 Sure, I'm just doing my job.

14 No one says that. Unless they're getting paid for a
15 job. He said he did his job because it was, in fact, a job.
16 He got paid for it. It wasn't a favor. He wasn't doing it
17 because he likes Christian Dawkins. He was doing it because
18 his understanding was that the money he received was in
19 exchange for him steering players. And he clearly just steered
20 a player by setting up a meeting with a handler for an Arizona
21 player, Rawle Alkins, and the people from Loyd Management.

22 Now, I want to stick with Vegas for a little bit
23 longer.

24 Defense, and particularly Dawkins, argues in part of
25 this story this is sort of wrapped up in his story that it was

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Rebuttal - Mr. Boone

1 all pretend and he actually got the money back and then he put
2 it in his bank account. I just want to make this very clear.

3 First of all, defense counsel showed you a slide. And
4 I think the purpose was to suggest that the money that was paid
5 as bribes in Las Vegas actually was deposited back into Loyd
6 Management.

7 First of all, what that slide failed to show you was
8 all the payments that were made in Vegas. You can review the
9 testimony of Marty Blazer. He told you all the payments.
10 Defense counsel didn't even touch those payments.

11 Those payments were over \$11,000 to Brad Augustine,
12 Marty Blazer said, for Jordan Fair, a coach at the University
13 of Louisville.

14 \$4,500 was paid to Lamont Evans, who we know by know
15 was a coach at Oklahoma State and a formerly a coach at the
16 University of South Carolina. Defense counsel didn't mention
17 that.

18 \$13,000 was given to Tony Bland.

19 \$6,000 was given to Preston Murphy.

20 \$6,000 was given to Corey Barker.

21 That's, obviously, more than \$25,000. So don't be
22 confused and distracted by this idea that all of the money that
23 was paid was actually put back. Clearly it wasn't. They're
24 not even accounting for the money that was paid. They're
25 trying to make the story fit because the puzzles don't fit,

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Rebuttal - Mr. Boone

1 because the story makes no sense.

2 Now, I've touched on Lamont Evans a little bit. As
3 you know, just check the South Carolina meeting. It's very
4 clear that Dawkins said in his own words, and we showed this to
5 him in his testimony when he was on the stand he confirmed that
6 he, in fact, said he did pay Lamont Evans \$2,500 monthly.

7 Now he, obviously, has a different story. Look at
8 what he said at the time when he did not know he was being
9 recorded and he was going to one day be on trial for making
10 those payments.

11 I want to touch very briefly on Book Richardson.
12 First of all, I think Mr. Moore said the government did not put
13 into evidence Book Richardson's contract. I'm going to assume
14 he just misspoke. We clearly do have in evidence Book
15 Richardson's contract from the University of Arizona. If you
16 want to see it, you can ask for it. It clearly says you are to
17 follow NCAA rules like all of these contracts say.

18 Now, very briefly while we're still on Arizona, there
19 was discussion about Book Richardson getting money and the
20 argument was made that essentially he was just given money
21 because he was a friend of Christian Dawkins and they didn't
22 really know what they were giving him money for but as a good
23 friend Dawkins was helping him out, getting \$20,000.

24 First of all, I want you to pay attention to a call.
25 This is Government Exhibit 142T. This is a call between

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Rebuttal - Mr. Boone

1 Christian Dawkins and Munish Sood. And in this call Christian
2 Dawkins is complaining about the fact that Jeff D'Angelo is
3 taking his time paying Book Richardson \$15,000. He's upset.
4 And he explains to Sood that the fact that Jeff is taking his
5 time is ridiculous because the money is needed immediately to
6 pay for Jahvon Quinerly, a recruit to the University of
7 Arizona, and that Book needs this money to seal that deal.
8 That's what the \$15,000 was for. And he needed it so badly
9 that Book Richardson flew all the way to New Jersey to pick up
10 the \$15,000.

11 So it's clear when you read that transcript that money
12 wasn't given to Book Richardson just because he's a nice guy or
13 because Christian Dawkins wanted to give him some money. Book
14 Richardson's understanding was that the money was for Quinerly.
15 Book Richardson's understanding was that the money was in
16 exchange for steering players and that it was his job to do so.
17 And Dawkins himself said in that phonecall specifically what
18 that money was for. It was not to go on a vacation or go out
19 to eat dinner. It was to help him with -- do what the ultimate
20 goal of the conspiracy is: Get Loyd Management players.

21 Now, I'm getting ready to sit down. Before I sit
22 down, I just want to say a few more words. We spent a lot of
23 time during this trial talking about the choices that the
24 defendants made. And keep in mind, without stating the
25 obvious, these are grown men who made their own decisions. No

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Rebuttal - Mr. Boone

1 one forced them to go in any meetings. No one forced them to
2 say the words they said. No one grabbed Christian Dawkins'
3 hand and forced him to put thousands of dollars in the hand of
4 a coach.

5 They made their own decisions. They made the
6 decisions to get involved with Jeff D'Angelo. They made
7 decisions to accept his money. They made decisions to set up
8 meetings in Vegas with various college coaches. And they made
9 decisions to pay those coaches and to inform other coaches that
10 they were essentially open for business and they will pay them
11 in the future if they needed.

12 What we have not spent a lot of time talking about is
13 the fact that there are several people in this case who didn't
14 get a choice to make decisions.

15 Jeffrey Carroll, player at Oklahoma State University.

16 Rawle Alkins, the player at the University of Arizona.

17 Taeshon Cherry, a player who was going to U.S.C.

18 Those players did not know what was happening behind
19 the scenes. They did not know that the defendants and their
20 coconspirators --

21 MR. HANEY: Objection, your Honor.

22 THE COURT: Sustained.

23 MR. BOONE: You heard testimony -- you heard
24 recordings, Book Richardson, in particular, talking about how
25 you can't give players choices. It's like taking them to a

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1 Benz dealership, a BMW dealership and a Porche dealership.

2 They like them all. You got to tell them what to do.

3 You heard Tony Bland discuss in Vegas how there's some
4 players I can tell them exactly this is what you're doing and
5 there are other players where I'm just going to have to work
6 them a little bit to get them to that point.

7 You heard Christian Dawkins himself talking about
8 Rawle Alkins, a player at Arizona, like he's a child, like he's
9 a three-year-old. You have to break it down for him.

10 My point is this: What this case is about is the fact
11 that the defendants, for their own greed, took advantage --

12 MR. HANEY: Objection, your Honor.

13 THE COURT: Overruled.

14 MR. BOONE: -- took advantage of these players. Their
15 goal was to eliminate their opportunity to choose on their own
16 who they wanted to represent them, who had their best interests
17 at heart. Instead, they made that decision for them.

18 If you review the evidence in this case, you will
19 reach the only verdict that's consistent with that evidence, is
20 that Christian Dawkins and Merl Code are guilty.

21 THE COURT: Thank you, Mr. Boone.

22 Ladies and gentlemen, we're going to take another
23 ten-minute break so please be prepared to come back out at 17
24 after the hour. Don't discuss the case.

25 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Everyone be seated.

3 Anyone on the defense team wish to comment on the
4 government's proposed instructions?

5 MR. CHANEY: Your Honor, we have read through those
6 instructions. I acknowledge for the Court that these -- the
7 substance of those -- of the proposed curative instructions
8 have already been charged to the jury in the Court's jury
9 charges.

10 Furthermore, the jury has been told repeatedly by the
11 Court that the law comes from your Honor and that the facts are
12 for the jury to decide for themselves.

13 They've been repeatedly instructed that the summations
14 are not themselves evidence.

15 Certainly, Mr. Boone had an opportunity in his
16 rebuttal to state any mischaracterizations that he believed the
17 defense articulated with respect to the law with the jury and
18 chose not to do so.

19 I don't think repeating instructions that have already
20 been delivered to these jurors would be appropriate at this
21 point. I think it would be largely cumulative and I think it
22 would unnecessarily draw their minds to particular arguments.

23 Further, I would simply note that Mr. Boone's last
24 argument to the jury was exclusively to inflame the passion of
25 the jury with respect to any harm that resulted from these

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1 alleged bribery charges, has nothing to do with the actual
2 evidence in the case and the defense is not asking for a
3 curative instruction with respect to that because for the same
4 reasons, they've already been told what the law is and what
5 their role is.

6 THE COURT: Mr. Haney, did you wish to add?

7 MR. HANEY: I would only note that the jury has
8 already been instructed on the matter regarding unavailability
9 of witnesses, which I understand that's the instruction, but I
10 would, on the record, just want to offer that I have a really
11 hard time with now instructing them further that the defense
12 lawyers had the equal availability to call certain witnesses,
13 including the FBI agents. We all know that's not true, your
14 Honor.

15 Now that's an instruction they were being instructed
16 on already, and I would submit we don't rub salt in the wounds
17 of the reality that that's not true or else those FBI agents
18 would have been on this witness stand and by doing that I would
19 submit that is really overemphasizing something that in and of
20 itself, I would submit to the Court, isn't really accurate.

21 MR. MOORE: I would only add one point. Mr. Haney
22 made an objection to Mr. Boone's closing remarks because he
23 referred to facts which were not in evidence. If we're going
24 to give a curative instruction and if we're going to call the
25 defense out as Mr. Solowiejczyk suggests, then I think that

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1 your Honor also needs, and we will be happy to provide you with
2 a curative instruction that says that Mr. Boone referred --
3 referenced facts not in evidence and instruct you, you are not
4 to think about facts not in evidence; your sole job is to focus
5 on the evidence that was presented.

6 And so for all those reasons I would suggest that your
7 Honor simply remind that -- you bring them in and say I
8 previously instructed you on the law. You have my written
9 instructions. If you have any questions about those
10 instructions, please send me a note during deliberations and
11 give them your concluding charge and not single out the parts
12 that the government would like you to single out.

13 I also believe that I did call attention to the
14 specific provisions of your instructions when I talked about
15 the missing witnesses. And I turned it on the issue of the
16 government has no burden -- the government has a burden and we
17 don't.

18 MR. SOLOWIEJCZYK: Your Honor --

19 THE COURT: I'm sorry.

20 MR. SOLOWIEJCZYK: Just briefly, there was one
21 argument made that since we didn't address the law in rebuttal
22 that somehow that meant that we didn't take it seriously or
23 that we somehow waived that opportunity.

24 It's the Court's job to instruct the jury on the law.
25 It's not our job. We don't presume to do that.

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1 I think, particularly given that we all had these jury
2 instructions in advance of these summations, that the jury has
3 been instructed, if you read what these defense lawyers said,
4 which is why we put it in our e-mail to your Honor, they just
5 fly in the face of what the Court instructed the jury on and
6 they should be reminded of the fact that whether a witness was
7 or wasn't called, they're not to infer anything from that.
8 It's very important, especially given the amount of emphasis
9 each of them placed on it. And that was their choice. It
10 wasn't the government's choice. And that's going to, in our
11 opinion, should lead to a curative.

12 And the same goes to the testimony of Chance Miller,
13 the compliance officer. Because now the thought has been put
14 in the jury's mind: Well, since he's a lawyer, he doesn't
15 think this is a crime, well then how could you possibly think
16 that Christian Dawkins and Merl Code think that? That's
17 obviously a completely improper argument.

18 And then the final thing I'd note is, your Honor, I'm
19 not sure what the suggestion is that we're -- that the
20 government somehow was arguing from things not in evidence.
21 But Mr. Boone quoted multiple meetings where defendants were
22 saying things to indicate that they were going to make the
23 choices for these kids. That was the point. So the notion
24 that we're arguing from things not in evidence I don't think is
25 accurate.

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1 THE COURT: I understood the point but the argument
2 that was made was that those individuals did not know and
3 that's why the objection was sustained.

4 OK. Over the defense objections I will give both of
5 the curative instructions. I will take out defense lawyers
6 names and simply refer to them as defense lawyers.

7 MR. MOORE: Would your Honor also consider reminding
8 the jury that to the extent that they heard the government
9 argue facts not in evidence that they are not to consider that.

10 THE COURT: No. Because the -- as Mr. Solowiejczyk
11 indicated or suggested, the emphasis that was placed on the
12 particular arguments is the reason why I ultimately believe
13 that these instructions are appropriate.

14 Mr. Boone started going down a particular avenue. An
15 objection was made. The objection was sustained. I don't
16 think that that requires a curative instruction.

17 MR. MOORE: Yes, sir.

18 THE COURT: OK. So you have two minutes. And what
19 I'm going to do, just so everyone is aware, I'm just going to
20 read the last -- I'll read the curative instructions. I'll
21 read the last couple of pages beginning at page 60 of the jury
22 instructions. I'll have them, the jury, go back into the jury
23 room. I actually will swear the CSO, who I believe is here.
24 I'll have the jury, including the alternates, go back into the
25 jury room, direct the alternates to gather their belongings and

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1 leave and direct the others not to begin deliberations until
2 they alone, the twelve of them alone, are in the jury room.
3 OK.

4 MR. MOORE: Is your Honor going to ask -- are we going
5 to know what the schedule is going to be or how are you going
6 to do that?

7 THE COURT: What I will tell them is that at this
8 point the schedule is in their hands. If they want to stay
9 later, they are free to stay later. If they want to maintain
10 the schedule, they may maintain the schedule. I'm going to
11 tell them that I'm going to give you guys an hour for lunch and
12 so that if they want -- if they have a question between say
13 12:30 and 1:30 that it may take a little longer to get them an
14 answer. Of course, when I tell them that it will be a lie. So
15 if we get any note in from them, we should be prepared within
16 five minutes to come to order and prepare a response.

17 MR. SOLOWIEJCZYK: Just very briefly on the
18 alternates. I'm sure your Honor has already thought of this
19 and I apologize in advance for presuming something that you
20 already know. I assume your Honor is going to instruct them
21 not to read anything in the news -- to continue that on an
22 ongoing basis just in case --

23 THE COURT: Yes. That's in the instructions.

24 MR. MOORE: Is your Honor going to ask them, all
25 twelve of you feel good, feel healthy, feel like you can go the

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1 duration before sending the alternates home?

2 THE COURT: I've never heard that.

3 MR. MOORE: Again, I'm have from a different place,
4 your Honor. That's somewhat standard in my home turf.

5 THE COURT: OK.

6 MR. MOORE: Because I understand that there's one
7 juror who has some sort of preplanned thing for Wednesday, I
8 think, at this point.

9 THE COURT: I understand. I have not heard anything
10 else from that juror. So I try not to kick hives or whatever
11 that phrase is. OK. So we'll bring them out in another couple
12 of minutes.

13 (Recess)

14 (Continued on next page)

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1 (Jury present)

2 THE COURT: Ladies and gentlemen, thank you, as
3 always, for your patience and shuttling back and forth.
4 Obviously, this is all very important stuff and we just need to
5 make sure that everyone is as alert as possible so that they
6 can be as attentive as possible.

7 I'm going to give you some final instructions, and
8 then you'll begin your deliberations in just a few minutes.

9 First, and this is not one that's in your jury
10 binders. We're going to start on page 60, by the way, of the
11 jury instructions.

12 First, let me instruct you as follows. Ladies and
13 gentlemen, you have heard certain arguments by the defense
14 lawyers this morning about certain witnesses that were not --
15 that were or were not called. I want to remind you that the
16 individuals the defense lawyers referred to were equally
17 available to all parties and it is no concern of yours why
18 certain witnesses were or were not called. Your only concern
19 is whether the evidence you heard in this trial establishes
20 each element of the offense you are considering beyond a
21 reasonable doubt.

22 Secondly, you also heard testimony, there were certain
23 arguments by the defense lawyers referring to certain testimony
24 from Chance Miller, a representative of the University of South
25 Carolina, as to whether he considered certain conduct to be a

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Charge

1 federal crime. As an initial matter, it is your recollection
2 of the events that governs and not those of the defense
3 lawyers. Further, the defense lawyers asked you to make
4 certain inferences based on that witness's views and, in
5 particular, based on the fact that that witness was a trained
6 attorney.

7 Ladies and gentlemen, that particular witness was not
8 called as an expert and his views on legal issues are not
9 entitled to any particular weight, nor are you permitted to
10 infer, based on his personal views, any particular knowledge or
11 mind-set of any other person, including the defendants. The
12 determination of whether the government has established beyond
13 a reasonable doubt that the defendants committed the offenses
14 charged is solely up to you.

15 Now I will give you some final instructions concerning
16 your deliberations.

17 You will now retire to decide the case. It is your
18 duty as jurors to consult with one another and to deliberate
19 with a view to reaching an agreement. Each of you must decide
20 the case for yourself. But you should do so only after
21 consideration of the case with your fellow jurors.

22 Your verdict and the answers to each question on the
23 verdict form must be unanimous. Discuss and weigh your
24 respective opinions dispassionately, without sympathy,
25 prejudice or favor toward either party and adopt that

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Charge

1 conclusion which in your good conscience appears to be in
2 accordance with the truth.

3 As you deliberate, please listen to the opinions of
4 your fellow jurors and ask for an opportunity to express your
5 own views. Every juror should be heard. No one juror should
6 hold center stage in the jury room and no one juror should
7 control or monopolize the deliberations. You should all listen
8 to one another with courtesy and respect. And if, after
9 stating your own view, and if, after listening to your fellow
10 jurors, you become convinced that your view is wrong, do not
11 hesitate because of stubbornness or pride to change your view.
12 On the other hand, do not surrender your honest convictions and
13 beliefs concerning the weight or effect of the evidence solely
14 because of the opinions of your fellow jurors or because you
15 are outnumbered or for the mere purpose of returning a verdict.
16 Your final vote must reflect your conscientious belief as to
17 how the issues should be decided. Your verdict must be
18 unanimous.

19 You are not to discuss the case until all jurors are
20 present. Nine or ten or even eleven jurors together is only a
21 gathering of individuals. Only when all the jurors are present
22 do you constitute a jury and only then may you deliberate.

23 If any of you took notes during the course of the
24 trial, you should not show your notes to or discuss your notes
25 with any other juror during your deliberations. Any notes you

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Charge

1 have taken are to be used solely to assist you and are not a
2 substitute for the transcript of the testimony which has been
3 taken down verbatim by the court reporter. The fact that a
4 particular juror has taken notes entitles that juror's views to
5 no greater weight than those of any other juror. And please
6 remember that if notes were taken during the lawyers' arguments
7 the lawyers' arguments are not evidence.

8 Now the documentary but not physical or audio visual
9 exhibits will be sent to you in the jury room. If you want any
10 of the testimony read back to you, that can be arranged.
11 Please appreciate that it is not always easy to locate the
12 testimony that you might want so be as specific as possible
13 when -- as to what witness and to what portion of that
14 witness's testimony you would like to hear.

15 Any communication with the Court should be made in
16 writing, signed by your foreperson and given to the marshal who
17 will be outside the jury room while you deliberate.

18 I will respond to any questions or requests you have
19 as promptly as possible, either in writing or by having you
20 return to the courtroom so I can speak with you in person. In
21 any event, do not tell me or anyone else how the jury stands on
22 any issue until after a unanimous verdict is reached. So do
23 not ever indicate in a note or otherwise what the vote is or
24 which way the majority is leaning or anything like that.

25 Your first task when you retire to deliberate is to

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1 select by your own vote one of you to sit as your foreperson.
2 You are free to select any foreperson you like. The foreperson
3 does not have anymore power or authority than any other juror
4 and his or her vote does not count for anymore than any other
5 juror's vote or opinion. The foreperson is merely your
6 spokesperson to the Court. The foreperson will preside over
7 your deliberations and will be your spokesperson here in court.
8 He or she will send out any notes and when the jury has reached
9 a verdict, he or she will notify the marshal that the jury has
10 reached a verdict and he or she will come into open court and
11 give the verdict.

12 Your deliberations -- during your deliberations,
13 please communicate with the Court only in writing and only
14 through your foreperson.

15 And by the way, ladies and gentlemen, if you do not
16 send out any other note, you will send out a note when you are
17 done that says as follows: The jury has reached a unanimous
18 verdict, without indicating what the verdict is.

19 Each of you has a verdict form in your binders. The
20 foreperson will receive the verdict form. It lists the
21 questions you must resolve based on the evidence and the
22 instructions that I have given you. When the foreperson has
23 completed the form he or she must sign his or her name and the
24 form will be marked as a court exhibit.

25 All of you have a copy of the form. You need only

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Charge

1 submit one or fill out one at the conclusion of your
2 deliberations.

3 Now the most important part of this case, Members of
4 the Jury, is that part you as jurors are about to play as you
5 deliberate on the issues of fact. It is for you and you alone
6 to decide whether the government has proved beyond a reasonable
7 doubt each of the essential elements of the crimes with which
8 the defendants are charged. If the government has succeeded on
9 a particular count with regard to a particular defendant, your
10 verdict should be guilty as to that count. If it has failed,
11 your verdict should be not guilty.

12 I know you will try the issues that have been
13 presented to you according to the oath that you have taken as
14 jurors. In that oath you promised that you would well and
15 truly try the issues in this case and render a true verdict
16 according to the law and the evidence impartially and fairly
17 without prejudice or sympathy.

18 (Continued on next page)
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J56HDaw5

Charge

1 THE COURT: (Continuing) Your function is to weigh the
2 evidence in the case and to determine whether the government
3 has proved beyond a reasonable doubt the guilt of each
4 defendant of the crimes charged in the indictment. As I
5 previously stated, your verdict must be unanimous. If at any
6 time you are not in agreement, you are not to reveal the
7 standing of the jurors, that is, the split of the vote to
8 anyone, including me, at in any time during your deliberations.

9 Ladies and gentlemen, you also have a copy of the
10 indictment in the binder. It is immediately after the jury
11 instructions. The verdict form is the very last document in
12 your binder. I'll remind you that the indictment is evidence
13 of nothing. It is merely an accusation, and I provide it to
14 you simply that it may assist you during the course of your
15 deliberations.

16 I also want you to know that while you deliberate, the
17 schedule now is entirely in your hands. If you wish, you can
18 stay later than 2:30. If you wish, we can maintain the
19 schedule that we currently have and that we've been working
20 with for the last couple weeks. It is entirely in your hands.
21 We will be here as long as you wish.

22 The other thing that I wanted you to know is to the
23 extent you have any note, we will get to them as soon as we
24 possibly can. However, I will give the lawyers a lunch hour,
25 so if you give a note between 12:30 and 1:30, it may take us a

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Charge

1 little longer to get back with you, but please be advised that
2 we are working as efficiently as we can to get you the
3 information that you want.

4 Now, at this time the regular jurors will soon begin
5 their deliberations in the case. Nevertheless, the alternate
6 jurors are not quite excused. While the jury conducts its
7 deliberations, you do not have to be in court, but you should
8 give Ms. Rivera phone numbers where you can be reached because
9 it is possible that one or more of you could be needed to
10 deliberate if a regular juror is unable to continue.

11 Ms. Rivera will call you if deliberations are
12 completed without our needing you so that you will know when
13 you are completely finished. Between now and then, you must
14 continue to observe all the restrictions I have instructed you
15 on throughout the trial. That is, you must not discuss this
16 case with anyone, including your fellow alternate jurors, the
17 regular jurors, other people involved in the trial, members of
18 your family, friends, coworkers, or anyone else. You may not
19 communicate with anyone about the case on your cell phone,
20 through email, text messaging, or by way of other social
21 networking websites, including Facebook and LinkedIn. Do not
22 speak at all with any of the parties, the witnesses, or the
23 attorneys. Do not permit anyone to discuss this case with you.
24 Do not "friend" or "follow" one another or any participant in
25 this trial on Facebook, Twitter, LinkedIn, or any other social

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Charge

1 networking website. Do not even remain in the presence of
2 anyone discussing the case. If anyone approaches you and tries
3 to talk to you about the case, please report that to me through
4 Ms. Rivera immediately.

5 Do not listen to or watch or read any reports
6 concerning this trial, if there were to be any, and do not do
7 any research on the Internet or otherwise. Do not visit any
8 places mentioned during the trial or conduct any kind of
9 investigation on your own, including on social media. Should
10 you be asked to participate in reaching a verdict in this case,
11 the only information you will be allowed to consider in
12 deciding this case is what you learn in this courtroom during
13 the trial.

14 I'm very sorry that you will probably miss the
15 experience of deliberating with the jury, but the law provides
16 for a jury of 12 persons in this case. So before the rest of
17 the jury retires into the jury room, if you have any clothing
18 or objects, what we'll do is you'll leave with the rest of the
19 jury. The jury should not begin deliberations until the
20 alternate jurors have retrieved their items and left the room.
21 So you'll be asked to pick them up and to withdraw before the
22 deliberations start.

23 Is the court security officer present? Sir, would you
24 please step forward.

25 THE DEPUTY CLERK: Please raise your right hand.

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Charge

1 (Marshal sworn)

2 THE COURT: Now, ladies and gentlemen, I will bring
3 you out at 2:30 so you can advise me as to whether or not you
4 want to continue.

5 Apparently you're going to stay until 4 o'clock today,
6 but we'll bring you out at 4 o'clock unless you need to speak
7 with us earlier, OK.

8 Yes, you can take the jury binders, not the
9 transcripts but the jury binders and your notebooks, if you
10 have them.

11 (At 1:33 p.m., the jury retired to deliberate)

12 THE COURT: Please be seated.

13 Ms. Rivera handed me a note which apparently they
14 communicated to her they've already decided to stay today until
15 4 o'clock. So unless there's any other note from them, we'll
16 bring them out at 4 o'clock and get a sense from them what
17 schedule they wish to keep. In the meantime, you should all be
18 close.

19 Does Ms. Rivera know how to get ahold -- do we have
20 your cell phone number so you can be back in five minutes if we
21 need you?

22 MR. MARK: We will.

23 THE COURT: OK. We're done for now.

24 (Recess pending verdict)

25

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(Jury note received; time noted: 2:50 p.m.)

THE COURT: Let me just ask. We're all gathered back. We do have a note. It's been marked Court Exhibit No. 1. Are the defendants here?

MR. CHANEY: We instructed them both to come up here. I think for future purposes we can -- I don't know if the Court has a position on whether or not the Court wants our defendants here.

THE COURT: I think it's the better course to have them here. This happens to be a fairly ministerial note as to which I believe there is no dispute. So let me just read the note into the record.

It reads, "We would like to request the transcript binders so we can each have a copy to review, signed by the foreperson, who is juror no. 1, Ms. Demrovsky.

I understand that the parties have provided the jury with one binder. Is there any objection to providing the jury with the other eleven binders?

MR. HANEY: We have none.

MR. MOORE: No, your Honor.

MR. MARK: No, your Honor.

THE COURT: So as soon as that can be put together, take it back in to the jury.

How much do you think that would take?

MR. SOLOWIEJCZYK: Fifteen minutes at most. We're

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1 just checking them over because, as you remember, there were a
2 couple that had missing exhibits. We want to make sure they're
3 all complete.

4 THE COURT: Even if you don't have like eleven, get in
5 as many as you can and then we can fix the ones that need
6 fixing.

7 MR. CHANEY: Do they have the defense transcripts in
8 there as well?

9 MR. SOLOWIEJCZYK: Defense is asking that their
10 transcripts be sent back there.

11 THE COURT: If we have copies of your transcripts
12 obviously they should go back there as well.

13 MR. MOORE: Yes, sir.

14 THE COURT: And if you don't have copies, I'm sure
15 that the government will be more than happy to help you out
16 with their facilities.

17 MR. SOLOWIEJCZYK: We're going to make copies for
18 them.

19 MR. MOORE: The government has them and so they've
20 agreed to make copies.

21 THE COURT: So then I don't think there's -- there's
22 certainly no need to bring them out.

23 MR. SOLOWIEJCZYK: No.

24 MR. MOORE: Correct.

25 THE COURT: So I will leave it to the parties to

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1 promptly pull together those materials and get it back to the
2 jury. OK.

3 Again, I think it's the better practice to have the
4 defendants here for any jury notes. They can be very
5 substantive and I wouldn't want any objection later on. OK,
6 folks.

7 (Recess pending verdict)

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1 (Jury not present)

2 THE COURT: OK. We have a court reporter. I'm going
3 to bring the jury out, and I'm just going to tell them my
4 understanding is that they want to stay until 5:00 tomorrow,
5 but I'll confirm that. I'll let them know that we're here at
6 their pleasure and remind them again not to talk about the case
7 once they leave and not to deliberate until all 12 are in the
8 room.

9 MR. BOONE: Your Honor, just one sort of question for
10 tomorrow. Is your plan to have the jury report and immediately
11 start deliberating? What time -- do the attorneys need to be
12 here at a certain time?

13 THE COURT: 9:30.

14 MR. BOONE: In the courtroom or just available or five
15 minutes away?

16 THE COURT: Yes.

17 MR. BOONE: OK.

18 (Jury present)

19 THE COURT: Everyone, please be seated.

20 Ladies and gentlemen, I'm not going to keep you long.
21 The purpose for my bringing you out was just to give you some
22 instructions, just so that we all know where we are.

23 As I understand it, you all will be coming back
24 tomorrow morning at 9:30. Please be on time. However, you
25 cannot begin deliberations until all 12 of you are in the room,

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1 so do bear that in mind. You should still also bear in mind
2 the fact that you should not discuss the case once you're out
3 of the jury room with anyone and you should not read anything
4 about the case should you come across it or watch anything
5 about the case should you come across that in the media.

6 Tomorrow we will have lunch for you, so there will be
7 breakfast in the morning, and then lunch will be brought at
8 around 12:00 or 12:30 so you don't have to make plans to do
9 that. That way you're able to work through the day.

10 I do have your note. I will read it. We will not
11 discuss it in your presence, however. So when I read it, you
12 may leave. I am also told that you are willing to work
13 tomorrow until 5 o'clock.

14 JUROR: 4:30.

15 THE COURT: 4:30? I just want to make sure I do have
16 the lawyers. 4:00?

17 JUROR: 4:30.

18 THE COURT: 4:30.

19 OK. I have your note. It will be marked Court
20 Exhibit No. 2. It was handed to Ms. Rivera by your foreperson,
21 Ms. Demrovsky. However, it's not signed by Ms. Demrovsky. I
22 will read it and then I will excuse you.

23 "Can a university be deprived of the honest services
24 of a coach if the university expected or was willfully ignorant
25 that the coach would violate NCAA rules or the employment

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1 agreement in performance of their duties?"

2 We will have an answer for you tomorrow, or as best of
3 an answer as we can provide. And when we do, we will either
4 bring you out to give you the answer or we will provide the
5 answer in writing, OK?

6 Until then, safe home. Don't discuss the case until
7 you're all 12 in the room. Have a very good night.

8 (Jury not present)

9 THE COURT: Everyone can be seated.

10 We will get you a copy of this. I would ask that the
11 parties discuss it, try to come up with a response on consent
12 this evening, if possible. If not, then be here at the usual
13 9 o'clock tomorrow morning, OK, with your proposed answer.

14 MR. MOORE: Yes, sir.

15 THE COURT: So we'll get you a copy of this. If there
16 is consent, please email it to my chambers this evening. Until
17 then -- actually, you can be seated.

18 Mr. Moore, are you going to be with us?

19 MR. MOORE: I'm not, your Honor. I'm leaving this
20 evening.

21 THE COURT: Well, safe travels, and you are welcome to
22 *pro hac vice* here anytime.

23 MR. MOORE: Thank you, your Honor. It's been a
24 pleasure being in your courtroom.

25 (Adjourned to May 7, 2019, at 9:00 a.m.)